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ABSTRACT

New ground has been broken in what is labeled as "anthropological diplomacy"--a study of the theory and practice of peace promotion and/or conflict resolution between/among micro-units (e.g., tribes) or macro-units (e.g., nation-states) based on sound knowledge of a society's fundamental cultural premises. There are six papers. The first underscores the importance of the psycho-socio-cultural characteristics of concerned and politicized populations in the recent U.S.-Iran diplomatic confrontation. The significance of the psychological and sociopolitical contexts in Soviet-U.S. relations is stressed in the second paper. The second and third papers use the tribe and the town as their units of analyses, discussing the relationships between the custom of headhunting and diplomacy in the Philippines and ethnicity and diplomacy in Mexico. Development diplomacy (the attempt of developed nations to earn cooperation from other nations through assistance) and the need for perspectives in the promotion of technology transfer from the developed to the developing societies are treated in the last two papers. A general discussion concludes the publication. (RM)

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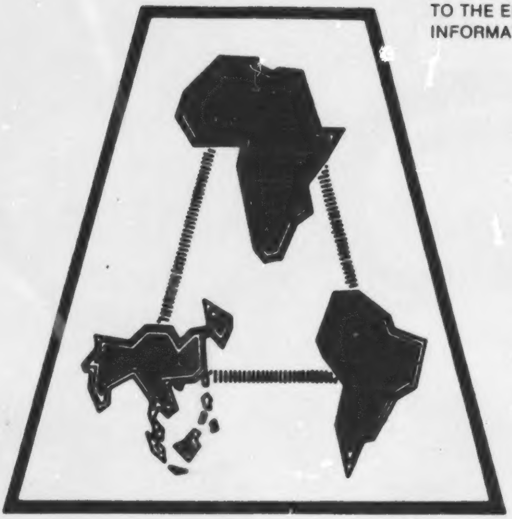

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INTRODUCTION

MARIO D. ZAMORA
The College of William and Mary

This issue of STUDIES IN THIRD WORLD SOCIETIES is devoted to six papers examining the relevance of culture to diplomacy, especially in the third world. Three anthropologists (Almirol, Lawless, and Magnarella), two scholar-diplomats (Landis and Lopez), and an international lawyer (Williams) have succeeded in breaking new ground in what is labelled as "anthropological diplomacy" -- a study of the theory and practice of peace promotion and/or conflict resolution between/among micro-units (e.g., tribe, band) or macro-units (e.g., nation-state) based on sound knowledge of a society's fundamental cultural premises.

Professor Paul Magnarella, a leading specialist on Turkey and the Middle East, underscores the importance of "the psycho-socio-cultural characteristics of concerned and politicized populations" in the recent United States-Iran diplomatic confrontation. Magnarella asserts that "potent cultural symbols, radical political or religious ideologies, along with the prejudices, attitudes, and aspirations of the participant masses comprise important realities with which modern diplomats must contend."

Dr. Lincoln Landis, a Washington-based consultant on Soviet affairs, stresses the significance of knowledge of the psychological and sociopolitical contexts in Soviet-U.S. relations. According to Landis, "academics of the West have not taken sufficient advantage of a rudimentary anthropological approach in the examination of important distinctions between political-social system of the so-called 'superpowers'." "It is regrettable," he continues, that "for so many years, centers of learning in the West have missed an opportunity to evaluate

Soviet perceptions and motives and, thereby, to strengthen public understanding of the aspirations of Kremlin leaders." Landis concludes that the West can be prepared to "act decisively and with wisdom" only when free societies like the U.S. can effectively analyze Soviet culture, society, and personality.

Professors Robert Lawless and Edwin Almirol clearly illustrate some principles of anthropological diplomacy with the "tribe" and the "town" as their units of analysis. Lawless' discussion of "Headhunting, Trade, and Diplomacy in the North Luzon Highlands" in the Philippines reenforces the force and power of restrained cultural relativism. Each culture or way of life has its own dignity and its rationale for being. Headhunting, for example, is not irrational or bizaare from the point of view of the concerned actors. In his provocative and interesting paper, Lawless has succinctly demonstrated "many points at which headtaking, trade, and diplomacy intersect" through a "holistic and functional interrelated approach" that many anthropologists feel is essential in cultural analysis. Lawless' conclusion is instructive: "In addition to paying close attention to the rational basis for any custom or set of related behavior, anthropological explanations must contain careful reconstructions of the sequence of events through history and to the influence of impinging exogenous events while giving full recognition to the tenacious resilience of traditional indigenous lifeways." Professor Almirol relates ethnicity and diplomacy among the Otomies and Mestizos of Otzolotepec, Mexico. He argues that the process of "identity definition is clearly linked with the allocation of economic resources and political power" which in turn is intertwined with "a complex system of social negotiation and diplomacy."

One of the most crucial ingredients of international diplomacy, particularly on the part of the super-powers is what is known as "development diplomacy." The U.S. and the Soviet Union attempt to win the friendship, allegiance, and cooperation of other nations of the third world through a variety of developmental assistance, ranging from technology transfer to sharing of scientific personnel. In his highly provocative paper, Professor Salvador P. Lopez, the Philippines' foremost diplomat, educator, and humanist has raised basic questions: What is development? Development for whom, by whom, and by what means? Lopez, in response to his own questions, believes that "any effort to strengthen capability for research, training and dissemination of knowledge in a developing country should meet the requirement that it springs from the effort of the people to pursue a style of development which faithfully reflects their values and aspirations." The human being as the prime focus of management and development diplomacy is best reflected by an outstanding Colombian educator that Professor Lopez interviewed:

> "Management is useful, but it is only a tool. Management is important but it cannot be more important than the thing that is managed, which is human and social development. Such development is essentially a humanist

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> enterprise which can no more be left to the technocrat with his computer than to the do-gooder with his bleeding heart. Management is not an end in itself but only a means to an end, the end being the improvement of the human condition -- in freedom and through freedom."

Professor Walter Williams, a leading scholar of international law, in his essay, complements Lopez's thesis with his theme of human dignity and the need for perspectives in the promotion of technology transfer from the developed to the developing societies. Williams' conclusion merits serious thought and reflection:

> "Throughout the study we have emphasized the necessity of infusing into all issues the applicable global community policies; policies that ultimately relate the operation of the technology transfer process to the fundamental community goal: the highest promotion of human dignity for all inhabitants of our world community. Throughout, the study points to the key problem of developing balanced perspectives, balanced policies, balanced regulations, if the transfer process is to function at its optimum level."

In all these articles, the authors strongly emphasize the role of values and the ideological, historical, economic, political, and social contexts in intertribal and international relations. The papers amply show that there is more to diplomacy than a round of "protocol, alcohol, and Geritol"; successful diplomacy presupposes a firm foundation of knowledge of the total way of life of a people, learned, shared, and transmitted from generation to generation by means of language and symbols.

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IRANIAN DIPLOMACY IN THE KHOMEINI ERA

PAUL J. MAGNARELLA
University of Florida

During the past quarter century, the informal dimensions of international diplomacy have demanded an inordinate amount of attention. These dimensions include the psycho-socio-cultural characteristics of concerned and politicized populations. Potent cultural symbols, radical political or religious ideologies, along with the prejudices, attitudes, and aspirations of the participant masses comprise important realities with which modern diplomats must contend. The comparatively new field of study developing out of this realization is called "public diplomacy," and the 1965 establishment of the Edward R. Morrow Center of Public Diplomacy within the Fletcher School of Law and Diplomacy represents academia's recognition of the field's significance.

The impact of mass participation and religious symbolism on international affairs has been dramatically demonstrated recently in the U.S.-Iranian case. This case illustrates an example of public diplomacy failed. The mutual antagonisms generated in these two countries revealed how poorly their leaders understood their counterpart's society and culture. Despite years of close official relations, Americans and Iranians had acquired only a superficial appreciation for each other's basic values. Successive American administrations had equated the Shah's loyal following with the Iranian people as a whole. At a 1977 New Year's banquet, for example, U.S. President Jimmy Carter lauded the Shah for the "respect, admiration and love" which his people gave him. By January 1979, The Shah's "loving people had driven him from Iran, and soon after U.S.-Iranian relations were at a dangerous low.

The crisis between these two countries centered most immediately on the issue of American hostages being held prisoner in the U.S. Embassy in Teheran by militant students with the sanction of Iran's de facto head of state. Americans regarded the Iranian government's acceptance of this violation of international law as incomprehensible and outrageous. Similarly, Iranians regarded the United States as the equivalent of Hitler's accomplice because of its harboring of the deposed Shah and its previous support for him. The immense differences between the two sides' perceptions of the situation stem in large part from their widely disparate cultures and unique interpretations of history.

This paper represents an American anthropologist's attempt to specify and describe some of the significant sociocultural factors conditioning Iranian diplomacy in this case. It begins with a discussion of the Iranian form of Shi'a Islam, for it is religion which provides Iran's leaders with the ideological justification for their actions.

Islam consists of two major forms of religious interpretations: Sunni and Shi'a. This division traces its origin back to Islam's nascent period when the Prophet Mohammad's death in 632 A.D. presented the Muslim community with apolitical crisis. No provision for a successor or for the successor's role had been previously agreed upon. A small group of partisans (shi'ah) of Ali maintained that the leadership of the community should remain in the Prophet's family and that Mohammad had designated his cousin (and son-in-law) Ali as his successor. Others -- the people of tradition and consensus (known as Sunnis) -- disagreed and installed Abu Bakr as the first Caliph or deputy of the Prophet. Both groups recognized Abu Bakr as well as the next two Caliphs who were chosen by the Sunnis in the same fashion.

In 656 A.D., Uthman, the third Caliph, was murdered and Ali was quickly acclaimed successor by his supporters. Opposition to Ali arose, however, among the relatives and allies of the previous Caliph. Ali's strongest opponent was Muawiya, the governor-general of Damascus and the paternal nephew of the deceased Caliph Uthman. War and arbitration failed to resolve their dispute before Ali was assassinated in 661. Subsequently, Muawiya became Caliph for the Sunnis, while Ali's sons (first Hasan, then Husain) became Imams (their title for deputy of the Prophet) for the Shiites. The Sunni-Shi'a split was now irreparable.

These differences over the mode of succession rest in part on incongruous interpretations of the deputy's nature and role. Unlike Sunnis who regard the Caliph as a leader without extra-human qualities, Shi'ites maintain that the Imam must be a descendant of Muhammad through his daughter Fatima and his son-in-law Ali, because the divine grace and "light" needed for the office passes through that line only. Because of the light within him, the Imam possesses esoteric knowledge and the quality of inerrancy in spiritual and religious matters. Muhammad is the terrestrial source of this light which is inherited by the Imam, who consequently differ from the Caliphs by being intermediaries between Allah and humans.

Twelver Shi'ism, the Official religion of Iran, is adhered to by about one-fifth of the world's Muslims. These Shi'ites believe that the twelfth Iman, Muhammad al-Mahdi, who went into occulation in 940 A.D., is the indivisible ruler of the universe. He will reappear someday as the Mahdi or Messiah to bring equality, justice, and peace to a world torn by war and injustice. For these believers, "the perfect government is that of the Iman, one which will be realized with the coming of the Mahdi.... In his absence every form of government is of necessity imperfect, for the imperfection of men is reflected in their political institutions" (Nasr 1967:166).

During the absence of the twelfth (or Hidden) Iman, the obligation and responsibility for guiding the community falls to qualified religious scholars known as mujtahids. The particular mujtahid chosen by a community of believers is called the marja'-i taqlid (the source of imitation). Although there have been times when practically all Twelver Shi'ites recognized a single marji'-i taqlid, more usually several "sources of imitation" exist simultaneously, each with his own following (Algar 1972). Because of their religious beliefs concerning the imperfections and natural evils of human government, the activist marja'-i taqlids have frequently criticized governing officials and have, by virtue of their office, become leaders of the opposition.

The historic event providing the symbolic basis and enduring impetus for Iranian Shi'ites' predisposition for opposing government occurred in 680 A.D. when the Caliph Yazid (son of Muawiya) and the Imam Husain (son of Ali) and his retinue were killed in the desert near Karbala, Iraq. The contemporary Iranian understanding of this occurrence is well conveyed in the following abbreviated account taken from a Persian elementary school reader:

> The Imam Husain, the Lord of Martyrs, had been lied to by Muawiya, when he promised not to choose anyone to become caliph after himself. Instead, Muawiya spent large sums of money and destroyed all opposition in order to have his son, Yazid, succeed him as caliph. Yazid was an irreligious pleasure-seeker. The Imam Husain believed that if Yazid continued as caliph, the laws of Islam might disappear and all the tribulations of the Prophet and past Imams would be ineffective. Hence, he refused to recognize Yazid and agreed to aid the people of Kufa, who had requested his help against the caliph.
>
> In the year 61 A.H., Yazid's army attacked Husain and his small party of supporters in the desert of Karbala. On the tenth of Muharram, which we call ashura, thousands of soldiers, who were either ignorant or in the hope of acquiring wealth and position, caused Husain to suffer an honorable martyrdom.
>
> Imam Husain would neither accept Yazid's oppression and injustice

nor follow the advice of those who wanted him to remain silent. His brave insurrection gave Muslims a new spirit and his martyrdom served as an example of resistance against tyranny. He often said that he saw life under a tyrannic government as unacceptable and considered it happiness and pleasure to leave this world. He would never accept the shame of colluding with tyrants.

All Muslims have a special attachment to this Imam. In the month of his martyrdom (Muhurram) many gatherings are organized to commemorate his self-sacrifice in order to protect the bases of Islam. People tell of the great one's devotion and resistance to rulers unsuitable for their positions (Thaiss 1972:241-52).

"Following the creed of Ibn Babawayhi, one of the greatest Shi'a theologians, it is also believed that the Prophet and all the Imams were murdered and suffered martyrdom" (Thaiss 1972:350). Consequently, the Shi'a world view contains a deep sense of unjust persecution.

As mentioned above, during the month of Muharram various kinds of ceremonial gatherings occur in order to commemorate the martyrdom of Husain and his followers. They include "elaborate street processions (ta'ziya) in which people chant, cry, and sometimes beat themselves in order to participate in the passion of the Imam" (Nasr 1975:233). Frequently, the ideological basis and symbolism of these ceremonies take on primary political significance. The following paraphrased statement of a leading Shi'a religious leader in Teheran sometime after the 1963-64 anti-government demonstrations illustrates this point well:

> We mourn because we want to show our sincerity toward Imam Husain, because he fought against tyranny and oppression by Allah's order. We cry today because we don't want to give in to tyranny. We beat our heads and our chests because we don't want to fall under the pressure of dictatorship or accept coercion. We have been crying for 1,000 years; it doesn't matter if we cry for another 10 million in order to bring justice against tyranny. We, the religious leaders, are trying to make justice popular among society and to prevent cruelty and tyranny. To make people close to Husain and those like him and far from Yazid (i.e., the Shah) and his kind. We are crying because justice is gone (Thaiss 1972:365).

Historically, some of the most prominent examples of political activism on the part of Iran's Shi'ite ulama (learned, religious leaders) occurred in the 19th and early 20th centuries when the secular reigns of government were held by the Qajar dynasty.[1] Three events are especially notable for the ulama's determination of foreign policy and diplomatic relations.

The first occurred in 1826 when the ulama compelled the Qajar Shah to declare war very reluctantly against Russia (Second Perso-Russian War, 1826-28). Having been angered by reports of Russian oppression of Muslim peoples in the Caucasus, the ulama rallied the Iranian populace to the cause of jihad (holy war). Backed by mass street demonstrations, the ulama were sufficiently powerful to force the state to place Islam's defense above its own interests. Here as in other cases, the ulama failed to foresee the consequences of their political opposition. The war failed to achieve their objective. It ended disastrously for Iran with military humiliation and territorial loss.

The second event took place in 1872 when Qajar rulers granted a major economic concession to British financier Julius Reuter in the hope of increasing the state's revenue and lightening its heavy foreign debt burden. The Reuter Concession covered the rights to exploit minerals and forests in Iran and to construct railways. The ulama fervently opposed this potential penetration into Iran and control over its resources by non-Muslim, foreign agents. Again, by inciting their religious followers to demonstrate publicly against the concession, they forced the Shah to act against his perception of the state's best interest. He repealed the concession and thereby worsened relations with Great Britain.

The third incident to be noted here involved a similar set of circumstances. In the early 1890's, the Qajar government granted all rights concerning the sale, distribution, and export of Iranian tobacco to the Imperial Tobacco Corporation of Great Britain for payment of 15 million a year. The ulama and Iranian merchants joined forces against this concession, and the former issued a fatva (legal, religious ruling) declaring the use of tobacco tantamount to war against the Hidden Imam. After a successful boycott and several mass demonstrations, the government bowed to the opposition and repealed the concession.

Each of these historic events illustrates the recurring theme of ulama opposition to state government during the pre-Pahlavi period of Qajar rule in Iran. The ulama's successes both demonstrated the effectiveness of their opposition and empirically justified their role as leaders of the forces opposing government policies which either threatened Muslims or weakened the economic position of Iranian merchants -- their financial supporters and allies.[2]

Certain characteristic components of ulama-directed political opposition had become firmly established by the last 19th century and have been repeated in contemporary times. They include: a strong aversion to non-Muslim, foreign influence in Iran, whether it be British, Russian, or American; casting the shahs (both Qajar and Pahlavis) in the role of Yazid (Imam Husain's murderer); proclaiming the illegitimacy of the state and the tyrannical injustice of its actions; issuing statements and fatvas concerning the immorality of governmental policies and practices; and inciting the populace to support actively the ulama's anti-government positions by mass demonstrations which frequently result in violent confrontation.

In Iran, the organized, massive urban demonstration by marching, chanting, arm waving crowds has been an extremely effective means of showing popular support for or opposition to a variety of political issues (Abrahamian 1968). Denied a meaningful vote or other more tranquil channels of political participation by despotic governments, the mass demonstration became the people's chief means of political expression. Such displays involve a critical religious dimension. They embody the religious ritual and fervor associated with ceremonies commemorating the Imam Husain's insurrection against an unjust persecution by an immoral government.

On occasion, the masses will march at their own instigation to publicize their own special grievances and will invoke the name of a prominent figure whom they hope will champion their cause. For example, during the early part of 1980, the Azeri Turks of Iran's northwestern province marched to protest Ayatollah Khomeini's restrictive policies and chanted the name of Ayatollah Shariat Madari, the mujtahid they wanted to take up their cause. Hence, the mass demonstration is a means by which the public either can show support for an existing leader or can recruit a leader for their own purposes.

The twentieth century writing of most significance to Shi'a political theory is the book by a great mujtahid, Shaykh Muhammad Husain Na'ini (1860-1936) published under the title An admonishment to the Nation and an Exposition to the People concerning the Foundations and Principles of Constitutional Government (1909, in Persian). It was reprinted in 1955 with an introduction and annotations by Ayatollah Taliqani -- one of the ulama's leading opponents of the Shah. The following brief summary of Na'ini's key points is based primarily on Algar (1972) and Hairi (1977).

Na'ini wrote that in the absence of the 12th Imam an ideal form of government is impossible. Absolute forms of government, such as monarchies, are especially evil because their heads tend to deify themselves and rule by tyranny. To avoid this, a country needs an assembly of wise and benevolent persons to supervise the enactment of a constitution, which defines the rights and duties of the state and its people. The constitution must contain nothing contrary to Islam, and the assembly must contain a number of just mujtahids or persons designed by them, who can amend, approve or veto the assembly's decisions. The assembly must concern itself only with those temporal matters not already covered by Islamic law. The mujtahids in the assembly are to ensure that all its legislation conforms to Islam.

Note that while Na'ini opposed absolute governments, he favored theocracy rather than democracy. His proposal grants mujtahids in the assembly inordinate amounts of power.

In more recent times, certain Shi'a political themes received added emphasis in the writings and lectures of Ali Shariati, an Iranian social philosopher who interpreted Shi'a political thought as a historic ideology of the oppressed. Shariati became an anti-Shah revolutionary hero and martyr. His well-attended public lectures caused his arrest and imprisonment by SAVAK. He died in prison under suspicious circumstances in 1977 (Farhang 1979).

By 1963, Ayatollah Khomeini had assumed the role of religious leader of the anti-government opposition by issuing incitive verbal attacks from Qum on the government's foreign and domestic policies. Dissatisfaction with the Shah's regime became especially intense during the early 1960s because of policies giving it additional control over education and various sectors of the economy. The early sixties also marked Iran's shift from a constitutional monarchy to one man rule.

From the pulpit in Qum, Ayatollah Khomeini charged the government with violations of the constitution and a treasonous foreign policy. He especially incriminated the regime for its close ties with the United States and Israel. The U.S. had been instrumental in reinstalling the Shah in 1953 and had provided him with the aid necessary to strengthen his autocratic rule since then. Israel's Mossad and Iran's SAVAK (the secret polices of these two countries) had cooperated since the 1950s. The training of SAVAK agents reportedly took place in Isreal (Halliday 1979:297), and the Shah had supplied Isreal with needed oil while that country was suppressing the national interests of fellow Muslims.

In one of his declarations, Khomeini described the U.S.-Iranian agreement which granted certain rights of immunity to American personnel serving in Iran as "a document for the enslavement of Iran" -- a document which leaves the people unprotected from arbitrary American behavior (Algar 1972:246). He also denounced the U.S. as an enemy of Islam in all its policies. As a solution, Khomeini called on the Iranian military and people to overthrow the Shah's regime. "The Iranian army must not permit such scandalous events to happen in Iran. It must cause this government to fall....The people must demand of the ulama that they not remain silent on this matter;...the preachers must firmly and fearlessly protect against this disgrace and awaken the people" (quoted in Algar 1972:247).

The Iranian police arrested Khomeini during the earling morning (to avoid the crowds) on the tenth of Muharram (the anniversary of Iman Husain's martyrdom). The police could not have chosen a more symbolically loaded day for this act. As Algar (1972:248) writes:

> When news of his arrest became known in the capital, the ta'ziya processions being held that day naturally and inevitably turned into antigovernment demonstrations. Clashes took place with police and troops in the Tupkhana square and the vicinity of the bazaar. The disturbances continued with added intensity on the following day, spreading to the university, while simultaneously outbreaks were reported from Shiraz, Varamin, Kashan, and Mashhad. June 7 was a Friday, and congregational mosques in the capital, especially the Masjid-i

> Shah on the edge of the bazaar, were surrounded by tanks and heavy detachments of troops, to prevent worshippers from gathering for fear that a renewal of the rioting might occur. The uprising continued however with undiminished force: on the same day a pamphlet was issued in Teheran calling for jihad against the Shah's regime and on June 8 a similar summons appeared on Qum. A number of demonstrators were observed to be wearing shrouds as a sign of their positive response to the call. As early as June 5, orders had been given to the police, army, and security forces to shoot to kill, but it was not until six days later that the disturbances had been finally repressed, with extremely heavy loss of life.[3]

During this turbulent period the Shah attempted to appeal to the people through their own sacred symbols. His regime underwrote the cost of transporting masses of rural people into the cities for carefully orchestrated pro-government demonstrations favoring the Shah's land reform program. In his public speeches, the Shah invoked themes of ethics and social justice from the Quran and the traditions of the Prophet and Imams. He proclaimed that, "No one can claim that he is closer to God or to the imams than I am" (quoted in Akhave 1980:104).

In October 1964, the Iranian Parliament, following the Shah's wishes, passed two bills: one granting diplomatic immunity to American military personnel in Iran, the other accepting a loan of $200 million from the United States for the purchase of military equipment. Khomeini, who earlier had been released from prison by the police, again spoke out, accusing parliament of placing the Iranian people under American bondage for the sake of the dollar (Zonis 1971:46). He was arrested once more and, according to a statement issued by SAVAK, exiled from Iran effective November 4, 1964 for provocations contrary to the interests of the people and to the security, independence, and territorial integrity of the State (Zonis 1971:44).

Opposition by the activist ulama to the Shah's promotion of foreign (especially American) influence over Iranian economic and political affairs was dramatically demonstrated again in 1970. In May of that year a group of American businessmen met in Teheran to discuss investment in Iranian industry, agriculture, mining, and tourism. Ayatollah Muhammad Riza Sa'idi, a mujtahid of Teheran, spoke out vigorously against this meeting and depicted the Shah as "a tyrannical agent of imperialism" (quoted in Algar 1972:251). Sa'idi was arrested by security police for this agitation and reportedly was tortured to death in prison (Akhave 1980:161).

Hoping to eliminate, or at least to attenuate, the activist ulama's hindrance of his regime's activities, the Shah announced in 1971 his intentions of separating religion from politics in Iran.

From his exile in Iraq, Khomeini reacted by once again condemning the Shah and his regime, and in 1971 he published a book entitled Islamic

Government which criticized the monarchy along with Iran's quietest clergy. It also argued in favor of the doctrinal justification for the creation of an Islamic state even in the absence of the Hidden Imam. He wrote that Islamic laws "were legislated for the purpose of creating a state and for the political, economic, and cultural administering of society" (quoted in Akhave 1980:164). In the following years Khomeini declared that "from the beginning of mankind, prophets and the clergy were charged... with rebelling against despotic governments...." (Ibid.) He also urged Iranian students of religion to instigate and stimulate the masses against the unjust government and create contemporary versions of the tragedy of Imam Husain (Akhave 1980:166).

Matters came to a head in the late 1970s. The massive street demonstrations between January 1978 and February 1979 were among the most broadbased, popular agitations in history. Urged on by the local ulama and the exiled Ayatollah Khomeini, the masses marched with religious passion, hurling themselves at the Shah's army as if seeking martyrdom for their holy cause. As estimated 10,000-20,000 demonstrators died during the "year of protest" (Eqbal 1979).

From France, Khomeini called for "rivers of blood" to flow on the 10th of Muharram (Ashura) -- December 11, 1978 -- in order to topple the monarchy. Public support for Khomeini and the "martyrs" killed in previous anti-government demonstrations became so widespread that by September 3, 1979, riots broke out in 15 cities, including Teheran.

The Shah responded by installing a military government, which declared martial law in a dozen urban areas, but proved incapable of containing the people's emotions. Inspired by Khomeini and local religious leaders, hundreds of thousands took to the streets in the face of military barrages. The extensive popular opposition was comprised of conservatives, moderates, liberals, and leftists. Despite their differing ideologies, their shared hatred for the Shah enabled them to unite temporarily behind a muslim traditionalist movement.

With matters clearly beyond his control, the Shah asked his long-time political opponent Shapour Bakhtiyar to form a new government, and on January 6, 1979, after 37 years of rule, the Shah left Iran (on the recommendation of the American government) "for an extended vacation." His departure ignited massive demonstrations of joy. The popular will had deposed a monarch backed by a modern army and a secret police force.

Despite Bakhtiyar's bona fide credentials as an anti-monarchist, Khomeini called him a royalist puppet and urged his followers to continue their anti-government activities. For Khomeini, anyone who negotiates with evil (in this case, the Shah) is himself suspect. This theme would repeat itself many times in the future whenever a member of Iran's civilian government reached an understanding with the U.S. government, which according to Khomeini is a major source of evil.

On February 1, 1979, Khomeini ended 15 years of exile by returning triumphantly to Iran. The masses reacted as though the Hidden Iman himself has reappeared. They chanted, "The Hold One has come!" and, "He is the light of our lives!" Thereafter, they addressed him as "Imam." On February 11, following three days of bloody fighting between pro-and anti-Khomeini factions, the Ayatollah's forces took charge and Bakhtiyar went underground.

Khomeini assumed the role of de facto head of state on the justification that during the year of protest the people had invoked his name above all others (Akhave 1980:172). Working roughly with the principles espoused earlier by Na'ini, he established a three-tiered governmental structure. He, himself, occupied the highest, more powerful position. Next came an Islamic Revolutionary Council comprised mostly of clerics, and finally a weak civilian "government" headed by Prime Minister Mehdi Bazargan, a long-time foe of the Shah. In actual operation, Bazargan and the Revolutionary Council frequently pursued conflicting courses, and in their competition for power, the Council held the upper hand on the strength of Khomeini's backing. But neither the Council nor the civilian government could do anything significant without first obtaining Khomeini's consent.

For the first time in history, a member of the Shi'ite ulama had attained the political leadership of a state. In the absence of the Hidden Iman, however, many still regarded a Shi'ite state as a contradiction in terms (Algar 1969:5). Its establishment created a dilemma for both internal governance and international diplomacy. The dilemma stems from the ulama's traditional roles of watchdogs rather than government actors, of opponents and obstructors rather than program initiators, of promoters of xenophobia rather than negotiators of international agreements.

Among the first international objectives of the post-Shah Iranian governments was the discontinuation of all pro-American alliances and policies. Iran withdrew from the Central Treaty Organization, severed ties with Israel and embraced the Palestine Liberation Organization. Khomeini, and Bakhtiyar before him, proclaimed that Iran would no longer be the policeman of the Persian Gulf -- a role they accused the U.S. of encouraging Iran to play. They also rescinded most military agreements with the U.S. thereby depriving the Americans of strategic intelligence -- gathering bases in Iran near the Soviet border. In April 1980, when the U.S. government broke diplomatic relations with Iran over its government's refusal to gain release for the American hostages held in Teheran, hundreds of thousands of Iranians gathered in response to their government's call for a mass celebration.

Internal policies, however, produced less unanimity. The moderate and statesmanly Bazargan enjoyed the support of Iran's moderate and liberal elements, but his government was ineffectual against the opposing religious factions. Khomeini and his Islamic Revolutionary Council decreed national policy according to the "Iman's" uncompromising interpretation of the divine will. They regarded criticism and contrary opinion as sins against Allah. Their decrees were executed and enforced throughout Iran by local komitehs, or groups of religious zealots, backed by militia groups known as the Islamic Guards. By December 1979, the Council and its komitehs had summarily tried and executed about 500 generals, lower ranking officers, politicians, and others accused of supporting the Shah or other crimes. Frustrated by religious extremists seeking revenge, Premier Bazargan tendered his resignation on several occasions, only to have it rejected by Khomeini, who each time promised to restrict the activities of his zealots.

Although the Iranian population reportedly approved the formation of an Islamic republic overwhelmingly in a March 30-31, 1979 referendum, opposition to Khomeini's rule was erupting in many parts of the country. Left-wing extremists, among them the People's Fedayeen, advertised as early as February that they planned a different course for Iran by attacking the American Embassy and battling government forces sent to rescue it. Later they assassinated two of Khomeini's close associates -- Major General Mohammed Wali Qaraneh on April 23 and Ayatollah Morteza Motahari on May 1. By April, disillusioned moderates and liberals -- government officials, lawyers, and other professionals -- were openly criticizing Khomeini's religious narrowmindedness and the counterproductive activities of his revengeful komitehs. Even more serious, however, were the protestations of Iran's non-Persian minorities (comprising 50 percent of the population), who had come to regard Khomeini as one more Persian dictator determined to continue a policy of cultural and political imperialism.

The Azerbaijani Turks in the northwest, the Kurds in the west, the Arabs in the southwest, the Baluchis in the southeast, and the Turkomans in the northeast all complained of government suppression and of local elections rigged by the komitehs in their areas. Each minority demanded local autonomy under a new constitution with the right of free cultural expression in their own languages. The government failed to meet these demands, and by August, the Kurds were in open rebellion, fighting against heavily armed government forces, while Arab oil workers were staging strikes and sabotaging important oil pipelines. By fall, Iran's economy was in a shambles and revolutionary unity was gone.

An occurrence outside Iran temporarily attenuated the trend towards internal fragmentation. The former Shah's admission into the U.S. for medical treatment provided Khomeini with the issue needed to whip public emotion into a renewed unity. Many Iranians genuinely believed the U.S. intended to reinstall the deposed Shah on his peacock throne. Speaking on Teheran radio on October 28, 1979, Khomeini vehemently condemned the U.S., claiming that all Muslim and Iranian problems came from that country (Mottahedeh 1980:30). Seven days later, a large group of militant students invaded the U.S. Embassy in Teheran and seized at least 60 American hostages in the name of the Iman

(Khomeini). Following the formal rules of diplomacy, the U.S. filed a strong protest with Premier Bazargan's government and demanded the immediate release of the American prisoners. Earlier, the U.S. had naively relied on diplomatic assurances from that same government that it could protect the American Embassy from such an invasion. In the new Iranian reality, traditional diplomacy became a ritual with little authority or substance.

Shortly after the embassy takeover became public knowledge, enormous crowds formed outside the embassy to show solidarity with the student captors. In unison, the crowds chanted death to the Shah, to U.S. President Carter, and to America, and invoked Khomeini's name. Motivated by his own intense hatred for the U.S. government (which he equated with the Shah) and encouraged by the positive public response to the event, Khomeini publicly lauded the students for invading the "nest of spies" and accepted the resignation of his frustrated Prime Minister, who opposed the embassy occupation.

Bazargan's opponents in Iran had already undermined his credibility by exhibiting photographs of him and his foreign minister, Ibrahim Yazdi, meeting with U.S. National Security Advisor Zbigniew Brzezinski in Algeria, where the three were attending that country's 25th anniversary celebrations. After the embassy takeover, the clergy and militant students defamed Bazargan for "sitting at the table with the American wolf."

This internal conflict between Iran's clergy and civilian government (a conflict conditioned by Shi'ite history) would resurface whenever the civilian government attempted to negotiate a change in the status of the hostages with the U.S. or another foreign body. For instance, in March 1980, when Iranian President Bani-Sadr reached an understanding with a United Nations Commission concerning the transfer of the American hostages from student to government control, the radical clergy on the Islamic Revolutionary Council opposed him. The clergy and the students whipped up large crowds to demonstrate against the government's plan. The crowds chanted support for the students and invoked Khomeini's name. As before, the Ayatollah ruled in their favor.

Throughout much of the crisis, Khomeini remained in the holy city of Qum, refusing to meet or communicate directly with any U.S. government official. Having defined the U.S. Government as evil, he could allow neither himself nor any other official Iranian to negotiate with it. One does not compromise with devils.

Whenever the U.S. threatened economic or political sanctions against Iran, Khomeini and his followers welcomed them. Such sanctions served to further validate their casting of the U.S. government (especially Carter) in the role of the evil persecutor Yazid and themselves in the roles of Husain and his followers -- martyrs who bravely defied overwhelming odds to oppose evil and injustice.

In a statement printed in the New york times on November 18, 1979, and paid for by the Embassy of the Islamic Republic of Iran, Khomeini says the following:

> Let me announce that we are neither afraid of military interference nor are we afraid of economic siege, since we are Shi'ites and as Shi'ites we welcome any opportunity for sacrificing our blood. Our nation looks forward to an opportunity for self-sacrifice and martyrdom....we have a population of 35 million, most of whom long for martyrdom. We will go to battle with all these 35 million people, and once we are all martyred, then our enemies can do whatever they want to do with this country....We are men of war, we are born to struggle.

In the same statement, Khomeini describes Carter as "our worst enemy," and says that, "The 35 million people of this country...have for many years suffered under the weight of American imperialism and more recently under special pressure by Carter,..."

The peculiar Shi'ite belief in the inevitable evil and illegitimacy of improperly guided human governments renders the principles of international law and diplomacy null and void. Such a belief permits Khomeini to indignantly reject United Nations resolutions, World Court decision, as well as intercessions by the U.N. Secretary General, the Pope, and the Ambassadors of other countries for the release of the American hostages.

Khomeini's special Shi'ite status as leading marj-i taqlid deludes him into believing he has the spiritual right and political might to call on the peoples of other countries, such as the U.S., Egypt, and Iraq, to overthrow their evil governments, just as he had called on Iranians to overthrow the Shah. His purifying mission is not merely nationalistic. He called blasphemy former Premier Bakhtiyar's statement that he was first an Iranian and second a Muslim (Khomeini 1979).

Iranian diplomacy in the Khomeini era is conditioned by a traditional religious dogma expressed in the idiom of persecution and in the mass ritual of the street. It is conditioned by Iranian civilian administrations rendered politically impotent by a powerful clergy convinced of the inherent evil of human government. It is conditioned by an all-pervasive and consuming xenophobia generated by centuries of foreign exploitation. It is conditioned by the Iranian public's intense politicization and acceptance of martyrdom as evidence of genuine commitment to a politico-religious cause. It is conditioned by an ethnically diverse and politically fissionary population that periodically requires cataclysmic events to prevent its further disintegration.

While this set of conditions would be unique to any country of any age, they constitute an especially vexing challenge to the Western diplomacy of the 20th century.

Notes

1. For more complete treatment of the events discussed here, the reader is referred to Algar (1969) and Keddie (1966, 1972).

2. Because a strong state government threatened the judicial and other prerogatives of the ulama and was liable to tax heavily the merchants, the two became natural allies against the state. Both also opposed foreign penetration. The ulama disdained infidel influence over Iranian society, while the merchants feared European control over the economy (Algar 1972:236).

3. One of the many anti-government demonstrators wounded and imprisoned at this time was Abolhassan Bani-Sadr, the man to be elected Iran's first President in 1980.

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SOVIET PERCEPTIONS; SOVIET MOTIVES

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Today, more than sixty years after the Bolsheviks seized power, Soviet intentions are evoking renewed serious public interest. Yet, it is regrettable that for so many years, centers of learning in the West have missed an opportunity to evaluate Soviet perceptions and motives, and, thereby, to strengthen public understanding of the aspirations of Kremlin leaders. Briefly stated, academics of the West have not taken sufficient advantage of a rudimentary anthropological approach in the examination of important distinctions between political-social systems of the so-called "superpowers".

To be sure, other obstacles lie along the path to a more effective Western strategy for coping with the U.S.S.R.'s policies of territorial and maritime outreach. For example, there is the difficulty of monitoring with confidence the effectiveness of tactics designed to offset aggressive programs of the Soviet Union undertaken not only with respect to its peripheral regions but on a global scale as well. How does one attempt to keep a scorecard on appraisals of East-West relations when only the passage of years can enable us to gain a perspective to recognize astute judgements, on the one hand, and to identify faulty assessments, on the other? As for participants in the policy-making process, there is little opportunity or incentive to scrutinize one's own performance, although recently a former senior official frankly acknowledged that his mistaken assumptions about Soviet motives during teh early years of detente had contributed adversely to U.S. and Allied security. It is, of course, for governmental experts to wrestle with this accountability problem as they attempt to overcome a severe inherent procedural disadvantage: Soviet foreign relations are planned secretly by a few powerful men, while the United States conducts extensive public debate of opposing views, creating an impression for many that democracy is both inefficient and indecisive.

For academe, however, it is essential to begin undertaking an extensive and detailed investigation of Soviet perceptions and motives. Like social scientists in anthropology, economics and politics, many Soviet affairs experts are inclined to pursue knowledge in the time-honored way --as an end in itself. In the manner of specialists in other fields, they frequently apply their talents to the problem-solving needs of industry and government. Those who remain dedicated solely to the study and elaboration of theory are ill-equipped to deal with seeming complexities of East-West relations and related aspects of international affairs, while those who unduly emphasize applied research and methodology may undermine their professional attainment by paying too little attention to substance and objectivity.

The results of overly-concentrated theory and method can be quite counterproductive to the achievement of sound evaluations. Perhaps, this risk is nowhere more dramatically evident than in the contemporary issue of Soviet intentions during a so-called "era of cooperation." Too much stress on both theory and method in Soviet studies has produced, for example, the questionable judgement by some researchers that the U.S.S.R. espouses detente and arms control because Soviet leaders "share the rationality" of Western leaders, who believe these twin policies to be necessary for world peace and for the re-allocation of scarce national resources from defense programs to consumer needs. This analytical fumble, unfortunately, can only prejudice Western efforts to assess the elasticity of Soviet self-restraint in the use of force against established sovereignties of the Third World. That is, if one has not bothered to weigh the sincerity of Kremlin officials by probing for possible ulterior motives behind the approval of diplomatic protocols, how can one reasonably expect to be able to judge whether, under given circumstances of confrontation between East and West, the U.S.S.R. would regard detente and arms control as anything other than an attempt at strategic deception?

Whatever problems are associated with preparation of careerists in Soviet studies, not least of which could be inadequate funding of university research centers, the main need of "Kremlinology" today is the availability of specialists equipped to examine Soviet intentions by virtue of at least a nodding appreciation of cross-cultural factors that affect leaders' attitudes and their decisions in key situations. Let our experts in U.S. diplomatic history explore such questions as the basis of America's unflagging optimism in seeking to negotiate solutions to such deeply-rooted antagonisms as are to be found in many aspects of East-West relationships. For their part, students of Soviet affairs must reflect a thorough familiarity with historical events and intercultural distinctions so as to be able to sense why "expedient" policy choices in the diverse intellectual realm of American and Soviet politics may eventually lead to costly consequences.

The matter of mutual perceptions in the rivalry between communist and capitalist countries deserves greater academic attention than in the past. One example is the frequent public notice accorded to "improving" and "deteriorating" bilateral ties. Such assessments by prominent observers and journalists that U.S.-Soviet relations can change from "warm" to "cool" and back again in the span of a few weeks or months have no more historical justification than a contention that basic motivations of dedicated antagonists will fluctuate with mere changes in the weather. Another illustration of intercultural myopia with respect to the U.S.S.R. is the daily atrocity being committed in classrooms across the nations when professors and students alike refer to the U.S.S.R.'s officials as "Soviets", which is a colloquial term associated in Russian with such inanimate meanings as "administrative organizations," "meetings," and "advice," It should be evident that widespread usage of the term to convey one's nationality is inappropriate for listeners to Voice of America or for Soviet Russians sitting across the negotiating table. Also deserving of mention is a tendency among some Western academics to approach with earnest respect the periodic revisions that appear in the U.S.S.R.'s highly-flexible Marxist-Leninist code. Thus, Soviet writers occasionally find excellent opportunities to adopt theoretical insights developed by American and West European researchers as they attempt to justify and popularize their own ideological innovations, such as "the global scientific-technical revolution" and "the world correlation of forces." The need for clear and consistent communication of attitudes and ideas is fundamental in our efforts to be persuasive in crucial areas, particularly since the U.S.-Soviet relationship is already amply encumbered with challenging political and ideological divergency.

Students of East-West diplomacy should be aware of the importance of not only technical aspects of negotiations but political attitudes of the opposition as well -- how our adversary sees himself in his society and how he reacts to us in ours. Through the years, many interested observers in the United States have tended to assume Soviet intentions from the U.S.S.R.'s actions as well as from statements of its leaders and theorists. Resulting public confusion is illustrated in the irony that, despite our military superiority during the "cold war", many Americans were deeply concerned about the Soviet threat, while under "detente" they have often appeared complacent at a time when Soviet combat readiness is commonly viewed as threatening to match and even to surpass our own.

During the post-war period, most academics have not seriously come to grips with Soviet motives and perceptions, and, unfortunately, in slighting these topics, we have tended to deceive ourselves as to the magnitude and nature of the Soviet challenge. Some Western observers apparently have so little awareness of the crucial matter of intentions of the U.S.S.R.'s leaders that they have argued for the approval of bilateral agreements "just to keep both sides talking." To such observers, the virtue of negotiations consists mainly of substance which will ultimately determine whether, in the Western view, lasting agreements have a reasonable chance of being achieved.

Soviet motives have interested me since my service as a U.S. Army liaison officer to the Russian Army some thirty years ago in occupied Germany. Perhaps, most memorable was an occasion when my sergeant and I were seized by a Russian infantry squad while we were in the process of investigating an incident on the American side of the border, shortly before a scheduled meeting with Soviet Army authorities. It might be accurate to describe our feelings at the time in terms Winston Churchill had just made famous -- "a riddle wrapped in mystery inside an enigma." Yet, what I find to be even more puzzling is that, as we enter the 1980's, with a vivid historical account of Soviet international undertakings well-known to us, the issue of Soviet motives remains clouded by widespread uncertainty. Shortly before the last session of Congress got underway, Senator Ribicoff and his delegation to the U.S.S.R. experienced surprise and dismay on the occasion of a heated verbal exchange with Premier Kosygin. The American representatives found the Soviet leader to be visibly irritated at their well-meant observation that Salt ratification might be in serious danger as a result of the Soviet Union's continuing military build-up and its intense support of Cuban interventions. The senators might not have been caught off-guard if they had considered that Mr. Kosygin may have merely revealed the futility often sensed but rarely betrayed by Russian leaders in a pluralistic setting when confronted with discrepancies between the U.S.S.R.'s declarations and its actions. On the one hand a talk of arms control and peace; and on the other is a well-defined pattern of direct and indirect military provocation.

Soviet leaders, being both human and intelligent, are aware that they have been passing along a mantle of illegitimacy, from Lenin's successful coup against a serious Russian attempt at self-government in 1917 to the present regime's concerted campaign to buy capitalist technology and grain in support of the U.S.S.R.'s sagging socialist economy. They may well admit privately that Karl Marx, if alive today, would not be likely to lend his name to the fraud of their self-appointed elite, adapting for its own gratification the rich human and material resources of today's Russian empire. Yet, Soviet leaders are fond of declaring Marxian "world revolution" to be in tune with the "laws of history," assuring a so-called "inevitable" socialist victory over capitalist states. If the so-called "World revolution" as well as the newly-fashionable "correlation of forces" are perceived to be so utterly certain to lead to Soviet victory, one has every right to ask: "Why has the Kremlin gone to such lengths to catch and surpass the West in strategic rocketry and to develop an offensive capability against NATO?" And, if historical forces are so securely engaged in delivering a communist victory, one could ask: "Why has the Soviet Union become so involved in supporting Third World insurgencies with modern arms and well-trained Cubans at the risk of military confrontation with the West, to say nothing of the loss of innocent lives in the name of 'national liberation'?" In fact, it is likely that Premier Kosygin, President Brezhnev and others have translated into clear meaning the crux of the "struggle between capitalism and communism" -- the only hope of saving the Communist Party for future Soviet generations lies in destroying its greatest threat: The persisting notion of successful self-government as represented by the free nations of the world.

Students of Soviet affairs should be examining the probability that Soviet negotiators view Americans with fear and hatred, rather than in the orthodox light of "decadent capitalists." The distinguished leadership and Party elite have learned from childhood the blessings of communism, if not for Russia as a whole, at least for its ruling echelon, their families and children. Entirely germane to such study is the fact that Party membership looms as a bright prospect in contrast with the drab existence of the Russian masses. This distinction translates into an arrogance of position and privilege beyond that known among the wealthiest and most powerful citizens of democratic societies. From preschool "pioneers" through the "Young Communist League" to full Party membership is the only route to success in the U.S.S.R. This stronghold of prestige and favor displays no interest in entertaining competition from outsiders. Western researchers should consider that the prospect of public debate or of mingling with "the majority" is repugnant and wholly unacceptable to those who wield power in Soviet society. Such Western values as truth, integrity and tolerance are intolerable and alien, while such negative attributes as deceit, provocation and retribution are fully congenial.

It is appropriate for our academic community to begin to place increased emphasis upon the intellectual and social preserve of the Communist Party, which dares not to be infiltrated by thoughts of pluralism, diversity and debate -- unknown at home in the U.S.S.R. but annoyingly prominent abroad. Domestic controls are easy enough to apply -- police power and emigration approvals are available to dispose of raucous critics from within. As for the inherent risk of foreign contacts -- particularly, Americans and citizens of Allied nations -- close supervision is essential to preseve the purity of Soviet credentials. East-West relations since World War II reflect the Sovet response to the broad threat of Western pluralism and diversity -- to exploit American political and military restraint as an enabling mechanism to achieve those less-than-inevitable Marxist-Leninist goals.

Western researchers should be prepared to recognize that Soviet leaders have reason to be gratified by the outcome of their efforts against the West to date -- hegemonial and global engagements with the United States as principal adversary. These hegemonial encounters are meant to safeguard the security of the U.S.S.R. and the integrity of the Soviet block, as well as to extend Soviet influence over the Middle East. In general, these encounters have been quite successful in maintaining political tranquility over non-Soviet nationalities and the communist states of Eastern Europe, but the ultimate turn of events in the Middle

East requires close Soviet attention. Kremlin strategists have seen the resolution of the Berlin uprising in 1953, the revolution in Hungary and riots in Poland in 1956, the building of the Berlin Wall in 1961, and Czech efforts at liberalization in 1968, all thanks to Soviet armored forces and non-interference by the West.

With hegemonial security under control, Soviet leaders have stepped up a global strategy, from Khrushchev's "peaceful coexistence" supported by Western ostpolitik to a drive for global leadership through a "world socialist planned economy." Progress from the Moscow perspective already seems substantial: capitalist countries are facing a variety of severe international problems -- American loss of prestige in Vietnam, severe Western economic and energy imbalances, and turbulence in the West's relations with developing countries. Russia has gained important access to needed credit, advanced technology and grain, while not being restrained from Third World policies that have begun to threaten the industrialized West.

Scholars should be mindful of the utility in attempting to view East-West relations according to the impact of the course of events on the outlook of Soviet leaders. It is likely that one would find a growing disdain for the West in general and the United States in particular, as a result of our perceived apathy during the post-war period -- beginning with massive U.S. troop withdrawls in 1945 and 1946, while Soviet forces remained heavily-engaged in occupation roles. America appeared resigned, despite a superiority in nuclear weapons, to a permanent Soviet regime in Eastern Europe. The Kremlin perspective is also likely to have included a Western avoidance of confrontation during the blockade of Berlin in 1948 and later apparent inaction in response to Soviet policies in Berlin in 1953 and 1961, in Hungary and Poland in 1956, and in Czechoslovakia in 1948. Western attitudes on these noteworthy occasions would seem to confirm Soviet suspicions of our disinterest and to undermine respect for our policies.

Researchers applying a cross-cultural approach would be likely to observe a marked increase in Soviet self-confidence in world affairs in recent years, a trend with disturbing implications for the West. Traditional concerns about technical and agricultural deficiencies, while far from resolved, and an early gap in weapons modernization appear to be offset by a number of trends: capitalist countries are providing needed economic assistance; Soviet military readiness coninues on an upward curve as the West emphasizes non-defense sectors; the Communist Party of the Soviet Union enjoys unparalleled stability; and Western communist parties are gradually moving closer to government roles. The confidence of Kremlin leaders would seem to be on the rise precisely when Soviet policies of expansion and military development are seen to mesh with a perception by the U.S.S.R. that the West is seeking to avoid confrontation over important international issues.

The "cold war" and "detente" have appeared to suggest, respectively, that the West should "stand up to the Russians" or "sit down with them." Academic researchers and analysts should consider another approach: to emphasize results rather than means, while realizing that relations with Russia appear to be most stable if Soviet leaders respect Western resolve and, at the same time, are pre-occupied with an abundance of typical domestic socialist headaches. Several steps might seem to be required to bring about such stable, if perhaps somewhat less cordial relations with the U.S.S.R.: First, in contrast with practices under detente, acknowledge openly the conflicting features between the West and Soviet socialism, recognizing the natural contention between highly-productive societies based on individual freedom, on the one hand, and an economically-sluggish system that denies freedom, on the other. Second, develop renewed solidarity, signalling that future Soviet efforts to exploit Western restraint will be strongly opposed. And third, build a relationship with the U.S.S.R., stressing advantages to both West and East on a basis of reciprocity, citing such urgent tasks as controlling the activities of the nuclear club, combating terrorism, solving problems of poverty, and preparing for a stronger China on the world scene.

In summary, Western scholars and researchers should examine Soviet perceptions and motives in terms of the politics, economics, ideology and culture of the U.S.S.R. It will then become clearer why Soviet leaders are working diligently to bring about what they declare to be historically certain. We should consider that the U.S.S.R.'s planners and strategists, fully aware that the Party flies under false colors, are hard at work in efforts to assure its permanent rule over Russia. It is likely we would conclude that the conflict is not, as they pretend, a capitalist struggle against the advance of socialism, nor is there a threat of Western military provocation -- the perceived danger is in the survival of free nations with formidable economic power, technical innovation, and commitment to individual rights. Soviet aspirations are seen to be attainable only through the exercise of police power at home and its counterpart, military force, abroad; and the acquiescence of free nations is essential to permit further Soviet expansion into key foreign areas.

In-depth, scholastic research will point to the importance for the West to unify, blunting the recent growth in Soviet self-assurance which seems to spawn greater adventurism at the risk of world peace. This should cause the Kremlin again to come to grips with real-world concerns of technical and agricultural deficiencies. Then, there is a good possibility that, in wrestling with means to overcome the inherent drawbacks of Soviet socialism, new Soviet leaders may consider ideological concessions to nations providing antidotes to those ills. In the future, perhaps, they may even begin to entertain serious thoughts of bringing representatives of the Russian people into a governmental role. The challenge to American diplomacy is great, but not greater than our talents.

Some have said that time is running out for the West in its competition with the Soviet Union. That would not be true, however, if

Western scholars would fully exploit the realm of ideas, that unique strength of free societies. Only when we are able, through an appreciation of cross-cultural differences, to come to grips with Soviet motives and perceptions, will the West be prepared to act decisively and with wisdom.

HEADHUNTING, TRADE, AND DIPLOMACY IN THE LUZON HIGHLANDS [1]

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Barusan di tumaugad di Mangali.
Linapun kon ganan-it, sabangan
na Litalit, eged dak ad Mabigit
anandadat mamaggit, sinu nan
mabmabigit, ay-aya manit-tait
Mollat nin tan ganganit, ama lukop
chi bulit, aso kad ya pinalit,
maid ed din makinit, eged linakban
langit.

--A rodomontade by a Kalinga
headhunter of Kolayo, 1973

The Mangali Toast. I defeated
my enemies by slaughtering
them at the junction of a
twin river Litalit. And when
I was in Mabigit, I heard
beautiful maidens commenting,
"Who is the handsome smiling
warrior? He moves like a
bullet. If he were a hunting
dog, he would be the best!"
If not for those who are
jealous of me, I would be
known throughout the universe.

The image of savages roaming the remote wildernesses of Asia and South America on relentless hunts for the heads of their enemies engaged the imagination of both anthropologists and lay public long ago and holds it even today. In the minds of many the term *headhunters* is synonymous with the uncivilized primitives that anthropologists are supposed to study. Indeed, headhunting is widely regarded as simply another of those usually bizarre, often bloody customs of strange, distant peoples. Anthropologists customarily have accepted the challenge of showing how this practice is rational within the context of the people's culture and have advanced a number of explanations for its origin and continuance (see, e.g., Vayda 1969 and 1971).

Headhunting may not generally be regarded as functionally related to trade and diplomacy, so I will in this paper focus on the connecting links among the three as they are practiced in general in the North Luzon Highlands of the Philippines and in particular by the Kalingas, one of several ethnolinguistic groups occupying the Highlands. In popular and anthropological literature the Kalingas have a reputation as inveterate headhunters. Albert Bacdayan, an anthropologist who studied interregional diplomacy among the Kalingas, states that although at the time of his fieldwork in the mid 1960s headhunting "appears no longer to be a cultural focus, it occurs once in a while" (1967:35). During the time of my fieldwork there in 1973 and 1974[2a] no headhunts occurred, though several heads were taken as recently as 1971.

In September 1972 President Ferdinand Marcos declared martial law throughout the Philippines, and since then the Kalingas have emphasized the peacefulness of their territory and have called an effective moratorium on headtaking because they fear direct military rule by the ethnically despised lowlanders (see Lawless 1978:154-156; cf. Rosaldo 1980:44).

Headtaking: Headhunting, Retaliation, and Warfare

Not a homogeneous activity, headhunting consists of different strategies carried out for different reasons, and in fact the head is not always taken. In the eagerness for a rapid retreat to safety a hand or fingers suffice, though the most desirable object to return home with is that which is most human. Most people, it seems, consider the head as most human, specifically the face, and hands are perhaps second most distinctly human.

For analytic purposes headtaking is conveniently divided into three categories, i.e., headhunting, private vengeance or retaliation, and staged battles or warfare. The Mountaineers of the North Luzon Highlands make similar distinctions in their own folk model of headtaking. Among the Kalinga terms are kayaw for headhunting, kilib or balos for revenge, and baluknit for battles. Subcategories may include terms for headhunting prompted by the death of a close relative, headhunting for winning a woman's favor, vengeance by cognates, vengeance by the spouse's cognates, and vengeance by a co-pact holder.[2b]

Headhunting very often involves a lone warrior who usually takes the head of a defenseless, isolated person, such as an old woman working alone in the fields. Folk explanations for this activity revolve around concepts of prestige and recreation. Analytic explanations generally center on ideas of social cohesiveness (evident in the celebrations afterwards), of personal identity (in young men attaining warrior status), and of territorial integrity (perhaps growing out of attempts of swiddeners to set boundaries). Andrew P. Vayda suggests that the seeming irrelevance of simple headhunting to human resources redistribution might be related to the ethnographers' relatively brief periods of fieldwork and that the headhunting activity might actually be the first phrase of a systematic process leading up to territorial conquests (1971). This headhunting type of headtaking seems to have decreased after World War II, though sporadic incidents qualifying as headhunts are recorded at least into the mid 1960s (e.g. Bacdayan 1967:197-203).

Killings and woundings for retaliation, however, were common until 1972. Private vengeance usually ties in with kinship and weregild and is a topic that I will discuss later in pointing out the evolutionary changes in headtaking.

Warfare includes both raids and pitched battles. Often undertaken after a funeral, raids involve several men usually laying in ambush along a well-traveled trail. Warfare occurs between distinct regions and comes after a formal challenge that often designates the time and place of battle. In October 1974 during my fieldwork among the Kalingas the village of Dangtalan was having difficulties (arising from several accumulated disputes) with the nearby town of Lubuagan. One afternoon several men from Lubuagan stood upon the ridge of Lonong overlooking Dangtalan and issued insults and challenged all able-bodied men of Dangtalan to battle the men of Lubuagan the following morning in the area of Iwidon, a communal land that some Lubuagans were interested in parceling. The men of Dangtalan ignored the insults and avoided the challenges with the excuse of possible military consequences under martial law. Not coincidentally the Lubuagan region is densely populated compared to the neighboring Dangtalan region and its citizens have been systematically encroaching on Dangtalan land for several years.

Headtaking in headhunts, for retaliation, and in warfare occurs in all groups in the North Luzon Highlands and the processes and mechanisms for all groups are the same, whether they be the Tinguians or Western Kalingas (see Cole 1922:371-378), the Gaddangs (see Wallace 1970:32), the Bontocs (see Jenks 1905:176-183), the Ilongots (see Wilson 1947b:12-14), the Apayaos or Isnegs (see Wilson 1947a:14-16), and the Ifugaos (see Barton 1930:154; and Kane 1933:125-153). Indeed headtaking is similar throughout Southeast Asia (see, e.g., the works cited in Vayda 1976:122-123).

Headtaking on a warfare scale seems to be clearly related to resource redistribution and is most common in North Luzon Highlands areas of relatively dense population, such as among the Southern Kalingas, Bontocs, and Ifugaos. In 1939 in Southern Kalingaland, for example, warfare erupted between the regions of Bangad and Tinglayan over "good land that might be converted into rice fields" (Barton 1949:202). Seven were killed and a half dozen or so wounded. Probably about 250 men participated. Accounts are numerous of Bontoc warfare with predesignated battles (see, e.g., Worcester 1912:908).

After the intrusion of the American colonial government into the North Luzon Highlands beginning in 1900, and especially after the administrative reorganization of the Highlands in 1908, the area could not follow an uncontaminated evolutionary pattern. Much of the potential warfare that might have been stimulated by unbalanced resource distribution never took place. The American role in the demise of headtaking, however, may not be as important as is usually thought. Bacdayan in particular tends to accept official reports regarding American influence on headtaking uncritically without taking into account the bureaucratic purpose of these reports. He favorably cites the 1909 Report of the Philippine Commission and writes, "Under (Lt. Gov.) Hale the campaign against headhunting went so well that by 1910 . . . Worcester who was then Secretary of the Interior of the Philippine government reported that within one more year headhunting would be almost completely eradicated in Kalinga" (1969:130). As we have seen, however, headtaking among the Kalingas did not fully cease until 1972. And the first significant reduction in headtaking occurred in June 1921 after a meeting of Kalinga leaders who themselves decided that headtaking was disruptive to the new situation and should be stopped (Billiet and Lambrecht 1970:8). Reasons for the demise of headtaking among the Kalingas include the facts that 1) travel through enemy territory became imperative as population growth created a geographic imbalance in food distribution requiring regional exchanges of food, 2) the American administration set up an interregional government and the consequent construction of roads, wage-work opportunities, and education threw together people from different regions, 3) security outside the village was required to expand the paddies to keep up with food production for the growing population, and 4) leisure time declined as the Kalingas shifted into intensive agriculture. Another factor apparently lessening headtaking after the turn of the century was the fear of widespread killing with modern firearms.

Diplomacy

Diplomacy in the North Luzon Highlands has generally been studied under the rubric peace pact, a bilateral arrangement between mutually antagonistic regions. The most intensive studies have been among the Kalingas. The usual English translation of "peace pact" from the Kalinga word probably reflects the American emphasis on halting headtaking and ensuring peace and order rather than the Kalinga feeling for the arrangement. An outstanding authority on the Kalinga language, Francisco Billiet writes, "The term podon is the genuine Kalinga term for peace-pact. It conveys the idea of 'tight grip,' or, 'holding in one's grip'" (Billiet and Lambrecht 1974:33).

Podon (or bodon--phonetically p and b are mutually assimilative) specifically refers to the kind of hold that one person has on another. Two individuals or two groups bind themselves through podon to certain responsibilities toward one another. The hold they have on one another may be physical or moral or religious or political or economic, or it may be any combination of these; it is not necessarily related to peace, though, of course, most interactions presuppose a degree of protection from overt hostility.[3] The Kalinga word for "peace pacts" most commonly used in the literature and also widely used by Kalingas is budong (or bodong), an apparent combination of podon and bedeng, an Ilocano word meaning "landmark" currently and perhaps "agreement" previously. Throughout the rest of this paper I will use the term pact to refer to these diplomatic arrangements.

The first element of the pacts that must be understood pertains to the boundaries within which the pacts operate. The significant territorial unit among the Kalingas is generally called in English a "region." Formerly an endogamous deme, traditional Kalinga regions usually contain from 60 to 1000 households. The most exact definition of a region comes from the anthropologist Michiko Takaki, who spent almost four years in Kalingaland from 1964 to 1968. As Takaki emphasizes, each region is a sovereignty; "No superior (indigenous) authority exists outside a region controlling judicial processes within it" (Takaki 1977:27, 30). Interregionally, relationships, then, are conducted as between two sovereignties and are almost always bilateral. In fact, the pact-making power defines the region in the Kalinga folk model with the work simbodongan, or pact-holding unit, referring to a region. The fact that the region does not always have the same territorial boundaries in each of its bilaterally concluded pacts (cf. Takaki 1977:30) is a function of the hiving off of new and growing areas from the mother region and the initiation of different pacts at different times in history. These variations need not detain our analysis here.

One major point is that these pacts qualify as diplomatic arrangements since diplomacy is formally "defined as the application of intelligence, tact, and sound judgment to the conduct of official relations between" sovereign units (Plischke 1950:2). Another point is that in all probability these pacts gained initial importance partially as instruments for defining boundaries. As growing swidden communities clashed over increasingly scarce land and decreasing hunting grounds and forest resources, precisely defined boundaries assumed mounting cruciality. The earliest pacts among the Kalingas, which probably dated from the first quarter of the 1800s, delimited timber, rattan, and hunting grounds, as these oral pacts were recalled by my elderly informants in the more inaccessible areas of the Pasil River drainage area. Still another point is that the use of pacts has been widespread for some time. Bacdayan, who did his extensive fieldwork on Kalinga diplomacy and the pact system from November 1964 to March 1966, writes that his census "indicated that Kalinga villages have an average of fifty peace pacts with other villages" (1967:6-7).

Most contemporary pacts contain eight standard articles covering 1) the boundaries of the two negotiating regions, 2) a statement of responsibility of the pact holder for the behavior of his co-regionists, 3) a denial of the right of "hot pursuit" of third parties onto the territory of the parties to the pact, 4) a guarantee of shelter and food to traders and visitors from the other region, 5) the return of the ill or dead to their home region, 6) a guarantee of assistance to traders from the other region in terms of agents and commissions, 7) the return of stolen goods, and 8) the collection of debts or seizures to cover all debts owed to the other region (cf. Barton 1949:185-186).

All pacts are bilateral. The two diplomatic parties involved in each pact carry out all the required diplomatic duties but always with the close advice and consent of the elders and power elite of the region. Indeed, it seems clear that all pacts are arrangements between two regions, not just between two pact holders; the pact holders are truly diplomats representing a sovereign entity. The articles and other stipulations of the pact are not abrogated when the pact holders die because pact-holding is hereditary, and among the bilaterally organized peoples of the North Luzon Highlands these pacts have a special hold on affinal kin, as is shown in the speech of one holder cited by Barton who talks specifically about the pact obligtaions of "the relatives of my wife" (1949:182). Women may also inherit and hold pacts, but generally they allow a husband or near male relative to act for them. A husband who performs pact duties, however, is not regarded as the pact holder and should not pass the pact onto anyone in his own kindred not consanguineally related to his wife, though detailed histories of pacts show that this norm is often violated.

The inheritability of pacts suggests that they evolved from agreements between families. Among the less densely populated Apayaos to the north of the Kalingas most pacts were strictly between families in different regions, though since World War II there seem to be increasing instances of pacts between geographical groups with families serving as pact holders (Reynolds and Keyes 1973:81), as in Kalingaland. The next logical step in a population density progression would be pacts strictly between regions with the elders acting communally as holders and with no one family inheriting the pact. This is in fact how the pact system operates in the densely populated Bontoc areas to the south of Kalingaland (Maske 1973:7).

According to Takaki, "Concluding and sustaining a 'peace-pact' and manipulating it to advantage hinge on (1) the size of the regional population, (2) the ability and willingness of the population to act as a collective body in taking defensive or offensive measures against other regions, (3) the economic capacity of the region to participate in those activities customary between 'co-pact regions' as well as to settle interregional disputes swiftly with payment of indemnity, and (4) the actual and potential capacity of the region to extend material advantage to other regions" (1977:35). A fairly detailed account of the initiation, negotiation, conclusion, carrying out, breaking and renewal, and case studies of pact-making in Lubuagan is found in the writings of Roy Franklin Barton (1949:174-217), who lived among the Kalingas for four months in 1916 and for three months in 1941 .

A discussion of the controversy about the antiquity of these pacts and the extent of American influence on diplomacy among the Kalingas will provide further understanding. Barton seems to have set the custom for maintaining that the pact system is widely developed only by the Kalingas (1949:167-168). The Bontocs, neighbors of the Kalingas, whom Barton specifically mentions as having only a rudimentary version of the pact system, actually, however, developed the system to high degree, as was reported just after the turn of the century (Jenks 1905:176-178; cf. Cawed 1972:26-28). Other peoples in the North Luzon Highlands, such as the Gaddangs, have similar pacts (Wallace 1970:32-34). And other peoples in the Philippines have similar pacts, such as the Manuvu (Manuel 1973:200-295). Misleading statements are nevertheless still being made, leaving the impression that only the Kalingas have pacts (see, e.g., Grant and Tima 1973:180). Indeed pacts quite similar to the Kalinga ones have been described for the Usino people of the Ramu Valley in Papua New Guinea (Canton and Eisler 1976). Other variations of the pact system are found throughout Southeast Asia and Melanesia and will be briefly mentioned later in terms of trade structures.

In addition to incorrectly limiting the spatial distribution of pacts, writers have also restricted the pacts to recent times and have credited the origins of the contemporary version of Kalinga pacts to American influence. Barton believed that the pact system was "a comparatively late institution, although it undoubtedly reaches back before the coming of the Americans" (1949:167). Bacdayan believes "the institution was . . . a weak and insignificant mechanism of inter-village peace in Bontoc and southern Kalinga during the first half of the first decade of this century" (1967:298) and that the Kalinga pact system in general was an "ineffective institution prior to the arrival of government authority in the highlands" (1967:133).

The origins of the Kalinga pacts are obscure. Edward P. Dozier, who sojourned briefly among the Kalingas in 1959 and 1960, speculates that the pacts began in northern Kalingaland under the stimulation of the tenuous Spanish influence in that area during the last quarter of the 19th century (1966:33, 212-213, 234), but Bacdayan demonstrates that they existed earlier among the Bontocs and southern Kalingas (1967:13, 46-51). Kalinga pacts definitely are comprised of elements from an ancient system. Jules DeRaedt, who has spent nine years in the North Luzon Highlands as a priest and 26 months as an anthropologist among the Kalingas, has traced pacts with contemporary characteristics back to the third quarter of the 1800s in northern Kalingaland far from the core of the pact system and speculates that they existed for some time before that (1969:16-38). Interviews with Bontoc elders show that their pacts can be traced back to at least the mid 1700s (Cawed 1972:26).

Few writers on the pact system have researched the rich oral literature of the Kalingas to ascertain the antiquity of the institution. Bacdayan's report on Kalinga folk accounts of pact origins is limited to two superficial pages (1967:51-52), though he does say that they view it as an ancient institution "arrived at by themselves to meet specific problems and needs as long ago as pre-Spanish times" (1967:52). Billiet, who did do monumental research into Kalinga literature, writes:

> Peace arrangements, which belong to the sacred customs of the Kalinga, were actually in vogue among the Kalinga long before the civil administration promoted the modern peace pact institution. Since time immemorial, the Kalinga have had gongs, jars, chinaware and beads, which they have obtained from the western coast of Luzon. They could not have done this if they did not maintain peaceful relations among themselves (Billiet and Lambrecht 1970:47).

The idea that interregional diplomacy and the pacts are of recent origin is closely tied to the notion that the American administration in the North Luzon Highlands popularized the pacts in order to stop headtaking (see Barton 1949:172; Bacdayan 1967:11, 133, 137, 167-168). Such a perspective, however, does not seem to take into account the real sequence of events. For example, Bacdayan's ideas on the history of the pacts are strangely dependent on written accounts of others who do not even mention the pacts (e.g., Cole 1922) and again on the writings of government administrators who on brief trips through Kalingaland were impressed with the lack of order there during the first few years of the 1900s (Bacdayan 1967:43-50). This perceived lack of order was not, however, due to a lack of pacts but to the suspension of pacts resulting from the disorganization caused by the Philippine-American War of 1899-1902. Both the Philippine Army--the Katipunans retreating with their leader General Emilio Aguinaldo--and the pursuing Americans came through present-day Tinglayan, Lubuagan, and Pasil Municipalities and in Pasil both forces went through the villages of Guinaang, Pugong, Ableg, and Magsilay. At the very least the village of Naneng was destroyed by the Katipunans and Lubuagan by the Americans (Villa 1902). My older informants told me that their grandfathers said that the Americans also burned the villages and granaries of Pugong and Malucsad. Felix M. and Marie Keesing speak of a "recrudescence of old feuds (that) took place in Kalinga and Bontoc" during and after the "serious disorganization, economic devastation, and warfare" of the Philippine-American War (1934:74).

Bacdayan also relies on Dozier's pact "census" showing that all Kalinga pacts were established after 1900 (Bacdayan 1967:55). Let's keep in mind that Kalinga Subprovince was created only in 1908. Walter Franklin Hale, the first lieutenant governor of Kalinga Subprovince, took up residence there only in July 1908, and as his diary shows, the Kalingas were resistant to American authority at least as late as 1910 (Wilson 1956). Bacdayan himself points out that "Hale's diary for 1909 (!) records the first specific use of the peace pact there (Kalingaland) in the service of the government" (1967:139).

An examination of Dozier's pact census (1966:269-282) of 189 pacts shows that almost one third were set up before American control of Kalingaland. Contrary to being evidence of American influence in propogating the pact system, the census illustrates that the pacts were widespread before the Americans arrived. In fact, what Dozier's census shows is the re-establishment of ancient pacts that were disrupted and suspended during the chaos of the military excursions; the year with the largest number of re-negotiated pacts--22--was 1902. Furthermore, of the 22 case studies throughout Barton's book dealing with pacts, 14 are dated before 1908 and 10 of these before 1900.

Much of the diary of Lt. Gov. Hale from the years 1909 and 1910 shows that the diplomatic mechanisms of the pact system were operating at full force when Hale arrived and that he used them selectively in attempts to extend his authority. Rather than making a concerted effort to stop headtaking, Hale actually tried to use the threat of headtaking to impress upon Kalingas his own power. And in cases where Kalinga concepts of sovereignty and diplomacy conflicted with the American concept of supraregional authority, the Kalingas followed their indigenous system. The pact system was neither created nor successfully manipulated by the Americans.

Some selections from Hale's diary illustrating these points include the following:

> The Vice Presidente of Mangali came over. Said Wangiwant did not throw spear at Panading (of Lobo) only threw away the spear and told Lubo people that there was not any use to make peace, if they (Lubo) were going to carry their calasags (shields) with them all the time. The Vice Presidente asked me to come over and have a talk (Wilson 1956:19).

The above entry is concerned with efforts of Hale to have weapons carried only by his police--an effort that failed. Another entry says:

> Galloway and Uyam wanted to search Sumadel and barrios (for criminals), but were refused permission by the Baknangs (regional elites). . . .Ballongon and his relatives who held the Peace-Pact, broke it at our request. They are returning the plate and preparing tobacco for distribution as a sign (Wilson 1956:33).

This entry reflects Hale's attempt to use the pact system to cut off trade with regions not submitting to his authority. And again Hale writes, "Advised Lubagan to break Peace-pact or cut out criminals from Lubuagan with Sumadil, Bangad, Balatok or any other town where criminals were likely to go with safety. The Headmen of Lubuagan's Baknangs agreed to do so" (Wilson 1956:29). This last entry is in reference to a continuous attempt to get the regions and villages to rescind the hospitality section of pacts for those with outstanding criminal arrest warrants. Hale's attempts did not work because they violated the norms of sanctuary in Kalinga diplomacy; he inevitably had to send his own police after the "criminals."

Trade and Diplomacy

I have elsewhere given a brief outline of the trading patterns of the Pasil Kalingas with non-Kalinga groups (Lawless 1978:145-148). My major focus here will be on Kalinga interregional trade (cf. Rowlands 1973:589) in relation to pacts and headtaking. It is instructive to compare a typical ethnographer's description of the Kalinga pact with that of an indigene's. William Henry Scott, a lay missionary, the resident historian of the North Luzon Highlands, and a competent ethnographer, characterizes the diplomatic agreement as "a pact between two prominent citizens in two 'foreign' communities in which each party agrees to protect all members of the corresponding party's village while they are in his territory and to punish any transgression against them by his own townfolks in any other territory" (1960:182). Kanao, a renowned Kalinga leader of the 1960s, describes the peace pact as "the socialization by solemn rites of the idea of 'brotherhood' between two hostile tribes so as to create an atmosphere of peace between them and thus promote trade and commerce between them" (as quoted in Bacdayan 1967:61). The analytic (read American) description emphasizes peace, while the folk description emphasizes trade. In fact, although Bacdayan contends that these pacts were instruments of peace fostered by the Americans, his single most extended discussion of a single pact--the Lubo-Tulgao pact--illustrates that it was primarily concerned with trade relations and that it was in effect before the Americans entered the North Luzon Highlands (1967:152-159).

Barton, in contrast to Bacdayan and Dozier, does emphasize the trade aspect of the pact system and in fact contends that the pacts "developed by fission from a . . . trading-partner relation" (1949:145). He assumes that he clinches the point by maintaining (correctly) "that the trading-partner institution has a rather wide distribution in the Philippines, Borneo, and perhaps other parts of Indonesia, while (incorrectly) there is no report in the literature. . . of an institution similar to that of the Kalingas" (1949:168). Barton also cites a case of a pact originating in 1917 that grew out of the efforts of a man to gain an advantageous trading position (1949:172-173).

While the precise origins of the pact system remain obscure, Barton was probably more right than wrong in emphasizing the economic aspects of the pacts. The interrelationships among headhunting, trade, and diplomacy are more likely to be found in a web of socioeconomic links than in the tenuous and selective influences of the American administrators in the North Luzon Highlands. In terms of trade the pacts originally functioned as arrangements between elite households in different regions to monopolize trade in an out-of-reach region. When traders from Region A entered Region B, they were required to go directly to the person in Region B who held the pact with Region A. The goods were then either sold directly by the Region B pact holder or the trade was closely monitored by this pact holder. Nothing could be sold by traders from Region A in the surrounding fields or satellite villages and hamlets. All sales were in the home village of the pact holder for Region

B, and out of these sales the pact holder extracted a commission. The custom of inventorying the belongings of strangers upon entering and leaving Kalinga region remains to this day.

Actually the reduction in headtaking and the increased travel by indigenes throughout the North Luzon Highlands since the 1920s has made pact-holding a less desirable pursuit for Kalingas because income from commissions has been rare since World War II. Bacdayan quotes an informant as explaining, "People now know each other unlike before, so when somebody wants to sell something he merely finds a buyer himself and they meet somewhere to transact the business without involving the pact holder" (1977:100-101).

One of the great trade advantages gained from pacts was that of utilizing long-distance arbitrage schemes (cf. Rathje 1971:278), which are designated by the special Kalinga term ba-at. As reconstructed from the memories of a number of old people in the Pasil Regions of Kalingaland, the arbitrage story, so familiar in the history of successful Kalinga households, goes something like this: In the first quarter of the 1800s the Pasil Kalingas raised tobacco and bartered it for pigs from trading partners among the Bontocs or from Kalinga regions in present-day Abra Province where tobacco was scarce because of the Spanish enforcement of the government tobacco monopoly. By the second quarter of the 1800s the Pasil Kalingas had their own domesticated pigs that they slaughtered for ceremonies, but these pigs were still more scarce than pigs in Abra and hence more expensive. In the Pasil River regions in the second quarter of the 1800s one pig cost five bundles of tobacco--one bundle being about 15 cm in diameter--but in Abra one bundle bought one pig. Eventually those with surplus tobacco and trading partners built up a surplus of pigs, which they slaughtered in large in a series of prestige ceremonies that are now defunct (see Lawless 1978:150). Beginning in the third quarter of the 1800s the wealthier Pasil Kalingas began buying water buffaloes in Abra Province--the usual price at that time was 20 bundles of tobacco. It is clear that it was these wealthy Kalinga traders who introduced water buffaloes into the Pasil River regions, along with the custom of slaughtering water buffaloes instead of pigs for important ceremonies. By the fourth quarter of the 1800s the richest households among the Pasil Kalingas were slaughtering 120 or so water buffaloes annually. I have elsewhere set out the enormous societal consequences of these trading practices (Lawless 1977:104-106); I want to point out here only the advantages for elite households in initiating and maintaining diplomatic arrangements with other regions: poor households must give up their land to the elite in order to obtain the animals required for slaughter in certain ceremonies, such as funerals that all Kalingas are required to observe.

One of my elderly informants illustrated many of the above points with a detailed history of a pact between the region of Guinaang in the Pasil River area, and Abang, a Kalinga village upstream from Bangued, the capital of present-day Abra Province, on the Abra River near Bucay. My informant's greatgrandfather-in-law, whose name was Coom, held a pact of obscure origin with a man in Bangued. Once when in Bangued, apparently during the second quarter of the 1800s while negotiating with Spanish authorities there as a political leader of Guinaang, he met a certain Saguday from Abang. Saguday talked about the sugarcane technology of Abang, and they both discussed interregional price differences, as these members of the elite so often did during their travels. Coom decided that it would be advantageous for the two regions to have a pact. Over the next several years the appropriate visits were made, and the proper ceremonies held. The son-in-law of Coom by the name of Gaanu (Coom apparently had only one surviving daughter) began making visits to Abang about three times a year and carrying out an arbitrage scheme that involved tobacco and pigs. The only time others from the Guinaagn region went to Abang was for the two or three pact celebrations. Saguday died, and his kindred refused to properly feed the delegation that arrived from Guinaang along with Gaanu. Saguday's son informed Gaanu that there was no interest in Abang in continuing the pact. In line with Kalinga traditions. Gaanu then cut a bundle of tobacco in half and asked whether Abang preferred the trunk or the leafy. They took the leafy; Gaanu said the pact was cut; diplomatic relations were severed; and the Guinaang delegation returned home. A few days later some Guinaang warriors, including Gaanu, carried out a night raid on Abang, burning three houses and taking the heads of five men, three women, and one child. They returned to Guinaang and celebrated. The celebration is well remembered because it was at this time that the Pasil Kalingas heard that the Spaniards were leaving Bangued and that they first heard of the Americans. The Guinaang-Abang pact has never been renegotiated.

The literature contains at least one instance of trade and diplomacy strikingly similar to the arbitrage system in the North Luzon Highlands. The Siassi Islanders off the coast of New Guinea carry out long-distance trading to convert low value goods into high value and invest the proceeds in pigs to be slaughtered in prestige ceremonies (Harding 1967). Another study describes ceremonial and trade partners in three lowland and three highland groups in New Guinea (Rubel and Rosman 1975). Interestingly, in the unilineally organized New Guinea groups, the rules of exchange structure encourage marriage between partners' relations, while among the bilaterally organized groups in the North Luzon Highlands, children of co-pact holders may not marry; in fact all normal marriage prohibitions are binding between the two kinship groups.

One aspect of pacts often overlooked is their role in facilitating the exchange of information. My elderly informants in Guinaang say that their grandfathers were quite interested in initiating pacts just before the turn of the century (i.e., a few years before Hale showed up) with certain regions in Abra Province because they considered these regions to be technologically advanced. They say that the people of the region of Guinaang learned from the people of Abang how to use the rotary method for squeezing sugar cane juice--which replaced the old footpower method.

The final often overlooked factor influencing trade and diplomacy and also headtaking is the growth in population and consequent intensification of agriculture. According to my demographic research, the Pasil Kalingas experienced "a rate of population increase . . . in 1927-1929 followed closely by intensification of agriculture in terms of building rice terraces" (Lawless 1977:63-64). The construction of new rice terraces and the expansion of old ones got into full swing in the Pasil River area from 1930 to 1941.

Although a certain amount of supraregional authority had been established during the first half of the 1900s, the increase in pacts and the consequent safety outside the village were factors mentioned by all informants in the Pasil River area in connection with working the permanent rice fields in the 1930s. Certainly in the late 1800s and early 1900s the need for agricultural intensification, especially the building of the first rice terraces, had a fundamental influence on the development of the nascent pact system (cf. Takaki 1977:34). In the clearing, planting, and harvesting of fields in swidden cultivation entire villages or hamlets work together in felling trees, building fences, and so forth, and there is definitely safety in numbers in traveling to and from the fields and in working them. The nature of permanent, irrigated rice paddies, however, requires much work on an individual household level, and there must be other mechanisms besides communal numbers to ensure the safety of individuals attending their fields. Pacts provided this mechanism.

So when households began terracing, those regions required security from headtaking forays. Generally, then, regions beginning terracing sought out peace pacts with regions still primarily swiddening. Southern Kalinga regions in the current municipalities of Tinglayan, Pasil, Lubuagan, and Tanudan generally initiated pacts with regions in the more sparsely populated north in the current municipalities of Balbalan and Pinokpok. This sequence runs directly counter to Dozier's speculations, but is in line with Bacdayan's findings. In fact, the Bontoc legend of the origin of the first pact emphasizes that fighting had to be stopped because the new rice fields were being neglected (Cawed 1972:76).

This ecological foundation for the development of diplomatic relations is illustrated by the history of the pact between the regions of Guinaang and Salegseg. The pact holder in Guinaang is the wife of the same elderly informant who gave me the history of The Guinaang-Abang pact. The current Guinaang pact holder inherited it from her grandfather Gongon, who initiated it in the last quarter of the 1800s because several elite households in Pugong, a village in the Guinaang region, were interested in building the first irrigated rice terraces there but were stymied by continual headhunting raids from Salegseg, a region to the less populated north that still relied almost entirely on swiddening for its rice. Danglayan of Salegseg was approached through a mutual pact holder in Pantikian, a region near Salegseg, who had pacts with both Danglayan in Salegseg and Gongon in Guinaang.

One month after this initial contact a ten-man delegation from the Guinaang region went to Pantikian, picked up three men there, including the mutual pact holder, and proceeded to the house of Danglayan in Salegseg. There was a ceremony and the slaughtering of a pig, and heirlooms were exchanged. The primary diplomatic negotiations centered on the killing by a Salegseg citizen of a Guinaang man while he was working on his terrace. When the Guinaang delegation returned, several Pugong households immediately began building on new terraces located near springs outside the village. This pact continues in force with the last full-scale pact celebration (up to the time I left the field in 1974) being held in Salegseg in 1972.

Regions where intensive agriculture had become the primary source of the staple rice also had another reason for establishing and maintaining diplomatic relations with regions still procuring large amounts of rice from swidden cultivation. The wet-rice system is much more susceptible to drought, disease, and pests than is the dry-rice system, and diplomatic relations with areas less likely to have food shortage have obvious advantages (cf. Takaki 1977:34). During the rice shortage of 1927-1929 in the Pasil River area, many Pasil Kalingas visited for long periods with other areas, taking advantage of pacts with regions in the west in Abra Province and regions to the north. Many of these pacts with the regions were initiated during a minor food shortage that occurred in the Pasil River area within the last quarter of the 1800s.

Headtaking and Diplomacy

A further refinement necessary in the understanding of headhunting and the pact system is the demography of headtaking. Unfortunately statistical data do not exist, but all subjective data indicate that, first and foremost, the actual number of headhunters was small relative to the total population. My information on the Pasil Kalingas suggests that regions of approximately 500 people rarely boasted more than three men who had taken more than three heads. DeRaedt writes about his area that "actually only a small minority of the men were headhunters" (1969:95). Certainly the killing of more than ten by any one man was exceptional and only two or three were the usual number that Kalinga headhunters killed (cf. DeRaedt 1969:95).

As a general rule, we would expect to find the same men in all three positions as headhunters, traders, and pact holders, but unfortunately no good historical data exist on the correlation of membership among these three groups. Some data do indicate that elite groups tended to monopolize headtaking. Barton writes about a way of developing headhunters that could only be carried out by wealthy elite because it required weregild payments:

> In order to teach boys how to kill, they were allowed to hack and spear corpses of enemies that were carried home for the purpose. For sons of the pangats (segment of elites), there

> was sometimes a lesson on the living subject called lobloba. If the pangat were an especially doting father, he would take his little son, sneak up behind some co-citizen, and help the boy jab a spear into one of the citizen's buttocks. Then the pangat would pick up his young hopeful and hurry into his house. He would later on pay weregilds (1949:43).

The date of Barton's accompanying case study, which is around 1895, shows that, in retaliation, the use of killings and weregilds overlapped so that sometimes both were used, though it is clear that the custom of weregilds was gradually replacing killing even before the Americans arrived (see Barton 1959:195-196). The American emphasis on peaceful settlements no doubt hurried the process along.

Another indication that the elite tended to monopolize headtaking does indeed come from the historical change in the form of kin retaliation, which evolved from headtaking to weregild. As more wealth differentiation developed agricultural intensification (see Lawless 1977:95-110), the elite perceived a way to gain more wealth, i.e., through weregilds. Also with intensification of agriculture men were needed in the fields and the weregild spared men from taking time off for a headhunt. The elite had more leisure time to spend in killing and after killing could buy off the offended and be relatively safe from retaliation. The switch from retaliation to weregild probably led to more killing on the part of the few rich and less on the part of the many poor, therefore less killing overall and more concentration of power and prestige in the hands of the rich. Headhunting led to increasing prestige only after it was controlled by the elite who could then manipulte it and weregild. The elite did not get prestige through headhunting, headhunting got prestige through the elite.

In addition to coming from wealthy households, headhunters generally came from households that could mobilize a large kindred to protect them from retaliation. In the labor-scarce economic systems that had been extant throughout Kalingaland until just maybe the 1950s, elite households were precisely those that could mobilize large kindred to plant, harvest, and pound rice for various prestige ceremonies.

The correlation of wealth and trade is obvious in the arbitrage schemes discussed earlier. Pact holders generally correlated with headtakers since the successful enforcement of the early pacts required a man known to be capable of defending and upholding the terms of the diplomatic agreements, either by sacrificing the blood of someone in his own region or by seeking revenge or forcing payments from another region (cf. Bacdayan 1967:303; Barton 1949:173-174).

And finally the correlation of wealth and pact-holding is well recognized in the traditional Kalinga folk model, though recent events, to be discussed later, have cut into this association. At a time before World War II, however, in Lubuagan, for example, Barton could characterize 15 of the 26 pact holders as belonging to the top socioeconomic layer of that region (1949:170). Although pact holders among the Pasil Kalingas at the time of my research usually denied that they had gained any wealth as a result of their position, they agreed that pact-holding in their father's time could have been quite profitable. In addition to commissions from trade activities the pact holder could levy fines against members in his own region who violated the pact in other regions. The pact holder also received token gifts from co-pact holders to mark the settlement of various interregional disputes.

The intricacies of the interrelationships among headtaking, trade, and diplomacy are complicated by the shifting scarcities of various resources, especially the water buffaloes so important both in successful trading and in pact celebrations (a point to be developed later in connection with the decline of the profitability of pact-holding). Unfortunately, much writing on the Kalingas has taken a simplistic approach best exemplified by Dozier in his opening paragraph:[4]

> A genuinely individualistic people, cultivators of dry and wet rice, the Kalinga of northern Luzon have the reputation of being relentless headhunters. Today, through Western influence and acculturation, these people have exchanged headhunting for a system of peace pacts and a consequent concern over legal matters. ...For in arbiting regional disputes, matching oratorical wits, and vying for local or municipal position in the structure of modern Philippine politics, the Kalinga seem to be satisfying the same drive for individual distinction that made them take to spear and headaxe (1966:ix).

Dozier and also Bacdayan (1967:303) tend to embrace a one-to-one energy theory about the relationship between headhunting and pacts, i.e., energy formerly used for headhunting is now used for pact activities. This "theory" ignores the fact that headhunting and pacts existed together for at least more than a century among the Kalingas. And the idea that the Kalingas have a "preoccupation. . .with custom law" (Dozier 1966:ix) reflects the fact that both Dozier and Barton talked largely to Kalinga men who in Western societies would be lawyers and judges.

Actually the gradual decline in headtaking and the end to headhunting took much of the force out of the pacts (cf. DeRaedt 1969:21-22). The "peace" aspect of the pacts that the national administrators tried to emphasize was clearly a mere by-product in the indigenous perspective of the diplomatic manuevers involved in the pact system. As DeRaedt points out, "Making travel safe, rather than stopping headhunting as a practice, was the primary effect of the pact" (1969:23).

By the mid 1970s other factors were taking their toll on the successful operation of the Kalinga pact system. Every slight movement toward integration of the Kalingas into the Filipino nation-state subtracted from the independence of Kalinga customs and most importantly, in terms of diplomacy, from the sovereignty of independent regions. The impact of the 1972 martial law, the extension of formal educational facilities, the use of payments from the national government to loyal local political designees--all have tended to erode indigenous Kalinga lifeways (see Lawless 1978:151-156).

Some acculturated Kalingas have made settlements and brought suits through the national judicial system, which exists at least on paper for all of Kalingaland. Some newly educated Kalingas have been known to conduct "amicable" dispute settlements through the pact system and then use signed statements of the defendant as evidence in later court suits. The attempt of the national government to build a dam near the confluence of the Pasil and Chico Rivers divided, outraged, reunited, and disorganized many Kalinga elite and taught all Kalingas a lesson about government manipulation and duplicity that they are unlikely to forget very soon (see Winnacker 1979). The dam experience also demonstrated the weaknesses of the pact system; neither the government nor the Kalingas, both of whom tried to mobilize opinion through it, found it terribly responsive to contemporary issues.

The pact system had in fact been greatly weakened since World War II, and especially in the 1950s and 1960s, by various indigenous processes, several of which I mentioned above, that tended to reduce economic benefits to pact holders' of their position. In addition, the reduction of water buffaloes--which I have examined elsewhere (see Lawless 1977:82-89, 97-100)--as the prime ceremonial animal for pact celebrations since at least the first quarter of the 1900s has seriously eroded the celebration and maintenance of many pacts. For example, most of the regions in the Pasil River area in the several years before World War II would have a minimum of four pact celebrations a year, complete with a three-to four-day gathering featuring speeches, dances, skits, and the feeding of the throngs through the slaughtering of many pigs and a number of water buffaloes. Several regions in the Pasil River area have, however, gone from the mid 1960s to 1974 without a single celebration.

Interregional diplomacy encounters particular difficulties when it comes between areas significantly differentiated economically. For example, regions in the middle Pasil River area, particularly the ancient Kalinga region of Guinaang, have an acute shortage of water buffaloes, while regions farther to the west and north have a relative abundance of these animals. The consequences to diplomatic relations are enormous. In 1972, for example, the holder from Pugong for the Guinaang-Poswoy pact went north to the Poswoy region with a delegation, and five water buffaloes were slaughtered in Poswoy to celebrate their visit. By Kalinga diplomatic custom the Guinaang pact holder must slaughter an equivalent number of animals in Pugong for the expected return visit by the Poswoy delegation, which could be within months or in several years. The pact holder himself, however, owns no water buffaloes. In fact, in an extraordinarily rare move, the Guinaang pact holder in 1974 was trying to "sell" his holdership in nervous anticipation of visiting diplomats from Poswoy. There were no takers.

Similar difficulties are evident in the Guinaang-Salegseg pact discussed above. Since its beginnings in the last quarter of the 1800s, the Guinaang-Salegseg pact has been a very successful one. In 1973 I had the pleasure of traveling through the Salegseg region and being royally feted by the Salegseg holder of this pact since in the Kalinga folk model I was a citizen of Guinaang region (by some criteria and a citizen of Dangtalan by others). Difficulties due to the economic differentiation of the two regions began showing up, however, when the only brother of the current Guinaang pact holder died in 1971 and Guinaang did not invite representatives from Salegseg to the funeral because they were fearful of the expensive gifts that the Salegseg delegates might bring--gifts that the Guinaang delegation would have to match on the next return visit.

A delegation from Salegseg did, nevertheless, come to Guinaang (for a late celebration two weeks after the actual funeral--which is perfectly proper Kalinga protocol) and gave gifts worth approximately US $10. Before they arrived to Guinaang the pact holder's husband sent word that he would slaughter only one small pig, but since there were 17 in the Salegseg delegation, he felt compelled to slaughter one large pig.

The Guinaang pact holder and her delegation of eight returned the Salegseg visit the next year in 1972. The Guinaang pact holder's husband requested that Salegseg slaughter only one large pig to match the one he had slaughtered the year before. The Salegseg pact holder, however, slaughtered three water buffaloes and three pigs, though he promised to claim only one water buffalo at the next celebration in Guinaang. Most citizens of Guinaang say that to actually slaughter only one would be an embarrassment; they must slaughter the equivalent of three--or more. It is ironic that the elite in the Guinaang region initiated this pact to gain an economic advantage, i.e., freedom to develop and extend their rice terraces, and that now the pact holder for Guinaang, her household, and her kindred find the economic obligations of the pact overwhelmingly burdensome.

The three water buffaloes due to be paid at the next celebration of the Guinaang-Salegseg pact, plus the five due the Poswoy diplomats and plus others due from other pact obligations, totaled about 40 water buffaloes by the end of 1973. Yet in January 1974, according to my filed census, the Guinaang region contained only between 81 and 163 water buffaloes--again depending on where the regional boundaries are drawn by the various criteria of the various pacts. The paying off of these reciprocal obligations would certainly "bankrupt" several pact-holding households. Citizens of the region do of course help in these pact celebrations but mostly in the form of volunteered labor; the pact holder has traditionally supplied the livestock for slaughtering. Furthermore the loss of even a quarter of the water buffaloes would play havoc with the Guinaang region agricultural system since the animals are extensively used in soil preparation in the terraced rice fields.

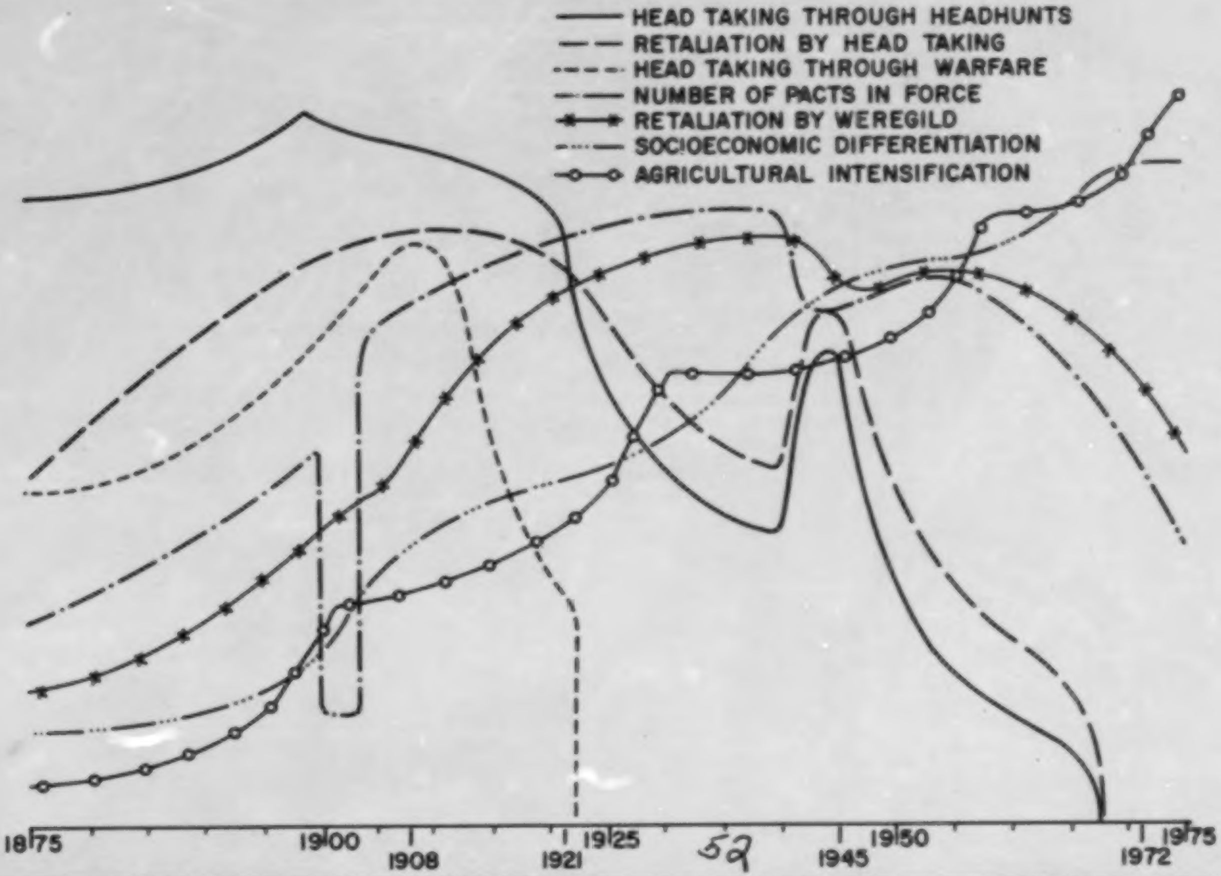
Conclusions and Discussion

Some of the historical dynamics of the interrelationships among headtaking, trade, and diplomacy are crudely summarized in Diagram I. I have purposely omitted any quantification of the vertical axis both because exact data are lacking and because numbers in these diverse variables are for the most part not comparable. The point lies in the historical increases and decreases in the frequencies of the cases in each variable. These vicissitudes can be compared through time without recourse to a quantified vertical axis. The numbers upon which the curves are based come from independent estimates by members of widely separated households in different regions in the Pasil River area from recognized Kalinga folk historians. From these data I averaged the rough estimates of heads taken through various strategies, numbers of pacts being celebrated or negotiated, and the numbers of weregild settlements. The representations of socioeconomic differentiation and agricultural intensification are my reconstructions of the socioeconomic history of the Pasil River area (see Lawless 1977:esp. 95-121). The diagram indicates correlations but does not explicate causality. The diagram serves simply as a heuristic visual device allowing the further development from additional data of a model of directional interrelationship among headtaking, trade, and diplomacy. It does seem that a decrease in headtaking overall led to a decrease in the utilization of the pact system. My data do not support the often repeated claim that an increase in diplomacy led to a decline in headtaking or that a decline in headtaking led to an increase in diplomacy.[5] When such a correlation does obtain--as during the brief period roughly between 1910 and 1935--it can be explained by reference to other impinging variables.

The historical factors in the development of diplomacy in Kalingaland seems to follow a particular sequence. Initially efforts in forming diplomatic pacts focused on arranging trade opportunities and defining boundaries of sovereignty. Safety during interregional travel and concepts of sanctuary were important and necessary ingredients of these pacts.

The increased requirements for additional food to feed growing populations within inelastic regional boundaries resulted in various forms of agricultural intensification, the most significant being the shift from swidden cultivation to terraced and irrigated rice-field agriculture. Among the prerequisites for permanent rice terraces is safety for intraregional movements. As terracing regions began emphasizing peace in their diplomatic negotiations, the prestige and incidents of headtaking declined, while the accumulation of wealth--which is more easily monopolized and manipulated in permanent-field agriculture with alienable land than in communal land oriented swidden systems--gradually gained prestige. In addition regions dependent on shortage-prone irrigated rice systems saw advantages in having diplomatic ties with other regions.

Diagram I: Schematic Representation in the Pasil River Area



These advantages accrued more to the non-elite than to the elite, and pacts in the mid 1920s and 1930s in the Pasil River were often initiated by groups of middle- or lower-income households or by groups of older men acting for the region who then requested an elite household to act as pact holder. In addition the demise of headtaking resulted in the lack of a clearcut signal designating regional leaders. Currently the pact system and the accompanying diplomacy is difficult to maintain under the lack of Kalinga leaders combining wealth, diplomatic power, and regional respect (or fear); the lack of commissions for pact holders resulting from the increase in amateur traders; the decline of regional sovereignty; the dispute resolution alternatives offered by national government institutions; and the economics of ceremonial slaughtering requirements.

The seeming anomaly of the 1910-1935 period when headtaking decreased and pacts increased is explained by the presence of an outside colonial force in Kalingaland that stymied warfare; although Lt. Gov. Hale seemed to have a casual attitude toward headhunting, he always dispatched armed members of the Philippine Constabulary to check any rumored pitched battles.

This artilce has shown, then, that there are many points at which headtaking, trade, and diplomacy intersect. Such a holistic and functional interrelated approach is indeed an integral part of the anthropological enterprise. In addition to the need for close attention to the rational basis, any custom or set of related behavior anthropological explanations must contain careful reconstructions of the sequence of events through history and of the influence of impinging exogenous events while giving full recognition to the tenacious resilience of traditional indigenous lifeways.

NOTES

1. My fieldwork in northern Luzon was sponsored by the Foreign Area Program of the Social Science Research Council, New York, New York; however, the conclusions, opinions, and other statements herein are mine alone and are not necessarily those of the Foreign Area Program or of the Social Science Research Council.

   This paper has profited from the comments of Michiko Takaki, University of Massachusetts at Boston, and Art Hansen and Paul Magnarella, University of Florida.

2a. My field work in northern Luzon was sponsored by the Foreign Area Program of the Social Sciences Research Council, New York, New York; however, the conclusions, opinions, and other statements herein are mine alone and are not necessarily those of the Foreign Area Program or the Social Science Research Council.

2b. In kindly supplying me with various terms for headtaking from areas of Kalingalandwith which I have little familiarity Dr. Michiko Takaki (personal correspondence dated 14 August 1980) points out that lexical evidence may be lacking for the idea that three folk categories correspond precisely with the three analytic categories.

3. For the ideas in the above few sentences I am indebted to Prof. Esteban T. Magannon, a Kalinga and a trained anthropologist.

4. I feel that I must caution the reader about Dozier's 1966 book, which is full of errors of fact and interpretation. The information in this book is nevertheless widely disseminated by being repeated in the prestigeous Holt, Rinehart and Winston series on Case Studies in Cultural Anthropology (1967). Dozier's work did receive one review by a person highly knowledgeable about the Kalingas (Takaki 1969), but the review can only be described as "generous."

   By his own admission Dozier spent most of his year in the North Luzon Highlands in Baguio City, the metropolitan center for the Highlands and the traditional colonial hill station and summer capital of the Philippines, a modern city about 175 road kilometers from the nearest Kalinga village. Dozier did spend one month in Lubuagan and one month in Salegseg at a Roman Catholic mission (1966:xiii), both Kalinga towns located along the national highway.

5. Among the Raiapu of New Guinea, according to Eric Waddell, the time and energy released from headhunting under the ratification imposed by Australian colonial officials, along with the introduction of steel tools, resulted in men taking "an increased interest in ceremonial activities" (1972:111). The imposition of supraregional authority in the New Guinea Highlands was apparently far more sudden, effective, and direct than its counterpart in the North Luzon Highlands; the reasons for its quick acceptance by the indigenes are not entirely clear.

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ETHNICITY AND DIPLOMACY IN A MEXICAN TOWN

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This paper examines the relationship between ethnicity and diplomacy among the Otomies and Mestizos of Otzolotepec, Mexico. As the Otomi Indians interact with the Mestizos they define and articulate an ethnic identity. This process of identity definition is clearly linked with the allocation of economic resources and political power. And the process of allocating and distributing economic resources and political power is in turn influenced by a complex system of social negotiation and diplomacy.

To many anthropologists, the art and practice of diplomacy is remarkably more mysterious than the initiation rites of a Kikuyo secret society and more intricate than a Kwakiutl potlatch ceremony. Diplomacy has apparently baffled even the most dedicated diplomat, political scientist and historian because of its complexity and lack of clear methodological and analytical structure (Lauren 1979: 4-7). Harmon (1971) assures us that "diplomacy has many procedures. They range from formal devices such as notes, aides-memoires, and communiques at one extreme to more informal and almost casual conversations at the other." Thus as a result, the study of diplomacy, particularly by social anthropologists, has been somewhat hampered. Young's indictment that "the greater part of what passes for diplomatic history is little more than the record of what one clerk said to another clerk" (1953:103) has not been particularly encouraging nor illuminating for students interested in the study of diplomacy.

I need to explain what I take diplomacy to be. There are three distinct functions of diplomacy that have been identified.

> "First of all diplomacy is largely a technique of coercion. Withdrawal of diplomatic relations is, in effect, a coercive element. Coercion may also be applied in negotiation by an ultimatum, by the establishment of a rigid time-limit for the conclusion of an agreement, or by the registration of a formal or informal protest or complaint.
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> Secondly, diplomacy can also be considered as a technique of persuasion. The advancement of arguments on the one hand and the proffer of a quid pro quo on the other, both persuasive devices, are within the exclusive province of diplomatic technique. It is true, of course, that the actual line of coercion and persuasion is often fuzzy at best and that the two approaches frequently coalesce into one another. Yet there is a real and distinguishable difference both in motivation and atmosphere, and most diplomatic initiatives are cast at least initially in a persuasive form.
>
> In a third way diplomacy is uniquely a procedure of adjustment .... Diplomacy is a technique for reaching agreement ... It must be emphasized, however, that agreement may involve either coercion, persuasion, or adjustment and that no agreement is possible unless both sides wish one. On the other hand, even a strong interest in formalizing an accommodation would be pointless were there not instruments and procedures for reaching one" (Harmon 9171:xi-xii).

For the purposes of this paper, I will deal with diplomacy as a technique for reaching agreement and formalizing accommodation. The process for achieving adjustment may not necessarily be amiable; in fact, confrontation and rejection are part of the process. I want to show that the 'procedure of adjustment' requires the interacting groups to articulate their identities and that economic and political incentives and constraints provide the basic vocabulary and idiom for such an articulation.

BACKGROUND

Agriculture is the most important economic activity among the Otomies. The Mestizos own most of the land but do not primarily depend on agriculture for their subsistence. Most Otomies work as hired hands on the Mestizo-owned cornfields or milpas. The Mestizos are generally in commerce, retail, government service, professions, and in family-owned businesses like cattle-ranching and pig-raising.

Originally, the term "Mestizo" was used to refer to the Hispanized Indians or those of Spanish and Indian blood or "mixed blood". But many Mestizos often claim that they have no hereditary connections with Indian ancestors, particularly with Otomi ancestors. There is an attempt to clearly separate and distinguish themselves from the Otomies. This attempt is often expressed by the frequent use of the label raza blanca (white race) to refer to themselves and to insist that they are primarily of Spanish descent and cultural background.

The Mestizos are in close, day-to-day interaction with the Otomi Indians. Despite this interaction and the fact that they are physically similar, they maintain their separate cultural identity. The Otomies speak a language which belongs to the Otomanguean language of the Macro-Otomanguean family (McQuown 1955) and dress differently from the Mestizos. The Otomi women traditionally wear a long, gray wrap-around skirt called chinquete with a broad thick woven belt called faja, and a colorfully embroidered blouse. The men wear collarless shirt, usually white, midcalf-length trousers which are invariably white, and sandals made from tire rubber and leather called huaraches. The Mestizos wear mostly western-style clothes and do not have any distinct attire.

The Otomi frequently refer to the Mestizo as bughe which carries a variety of meanings such as gente del centro (people of the center, referring to the fact that they live around the plaza which is considered the center of town), gente preparada (people who are educated), and Spanish-speaking people. A majority of Otomies speak Spanish, but Mestizos who can speak Otomi are rare. Frequently, the Otomies would refer to the Mestizos as gente de bajo (people from the lowlands), while they are the gente de arriba (people from the uplands). Church records of baptism which date back to 1769 and as late as the mid 1800's differentiated parish members into "de razon" and "Indio" categories. The terms Indio and de razon were originally introduced by the Spaniards to distinguish the indigenous population (Indio) whom they despised as being backward and inferior from the people "of reason" (de razon), namely themselves and their fellow-Christian, Spanish-speaking Mestizos. Today, neither term is used literally; Indio survives only as a term of abuse and denigration.

The income levels of the Mestizos and the Otomies reveal a wide gap. Mestizos earn up to four times as much as Otomies. The Mestizo notion that what Otomies earn or produce for the day is consumed and not saved for the future is true, but not because the Otomies are "carefree" and "lack foresight" as the Mestizos claim. The fact is that Otomies cannot afford to save. Lack of ready cash, and few farm goods which can be converted to cash further reinforce this pattern of immediate gratification. In all material respects-ownership of goods, types of houses, jobs, etc. - the Mestizos are much better off. They also have an advantage in literacy. According to the 1970 population census for the municipality, almost one-half of the population is illiterate and most of these are Otomies.

The Otomies who are confined to the milpa discover that it is increasingly difficult to support themselves and their families. To ease the difficulty, the family head and other older members of the family leave for the neighboring town of Toluca, some 52 miles away or to Mexico City, about 97 miles away to work as construction helpers or service and domestic workers in hotels and restaurants. Children of working age are now under some pressure to leave the milpa-based economy for jobs available in the towns. The other alternative is to remain in the milpa and borrow corn or money from the usurers, who are all Mestizos. Payment is usually expected by the next harvest season. Interest on money and corn usually range from 50 to 75 percent; 100% interest rates, although rare, are not unheard of.

ECONOMIC BONDS AND POLITICAL ALLIANCES

Historically, the socio-political and economic relationship between the Otomi and the Mestizo had presupposed a vertical order of groups; the latter occupied a dominant socio-economic and political position and the former occupied the subordinate position. This can be traced from early Spanish contacts when the conquistadores regarded the Indian as a "legitimate object of exploitation" so that "if he had wealth it was proper to take it from him. . . if his lands were desirable, he should be dispossessed or converted into a rural proletariat, or if not amenable to this procedure, he should be enslaved or exterminated" (Beals 1955:417). The Mestizos, due to their claims of Spanish descent, see themselves as heirs to this dominant position in the socioeconomic hierarchy and attempt to perpetuate this subordinate-superordinate relationship. To a large extent, it is the economic processes which maintain the lines between the dominant and the subordinate groups. Once the economic lines are crossed, ethnic boundaries are redefined and altered.

The economic relationship between the Otomi and the Mestizo is embedded and closely interrelated and interdependent, with a wide and vast variety of social contacts. In almost all of the Otomi-Mestizo interactions, particularly in the economic relations, the patron-client relationship is paramount. The Otomi is dependent on the Mestizo patron who lends money or corn, grants favors, and protects the Otomies' interests through his political connections. This paternalism has of course its own costs. Interest rates, as already mentioned, run high. A favor granted, therefore, is never repaid; instead, an eternal debt of gratitude goes on and on, tying the recipient-client to the endless demands and even abuses of the "benefactor"-patron.

The role of the benefactor is institutionalized in the compadrazgo system which is characterized by "simulated familism, mutual concern and support, and increase in the number of persons to whom one extends the prerogatives and responsibilities of particularistic privilege" (Tumin, 1952, p. 125). The bases for recruiting compadres (coparents) vary from the Otomi to the Mestizo. For the Otomi, his child's padrino (godfather) is someone from whom he can ask help and could depend upon for the granting of favors. He expects his compadre to intercede for him when he is in trouble, and to protect his interests when they are threatened. Generally, the bases for recruiting a compadre for an Otomi are access to power, influence, and wealth. Consequently, most if not all compadres of the Otomies are Mestizos. The Otomies are agreed that Mestizo compadres are more desirable than Otomi compadres since they are the wielders of power and wealth. Although there are several Otomies who are relatively economically secure and have sufficient social influence, they are not the first choices for the compadrazgo relationship because "they are not as presentable, nor as powerful, nor as elegant as the Mestizos." (There are nonetheless some Otomi padrinos of Otomi children. Poorer Otomies do recruit richer Otomies for compadres).

Mestizos, on the other hand, although they do not ignore the power-wealth rationale for compadrazgo relationships, recruit compadres from those with whom they can establish carino (affection) and simpatesa (empathy). Consequently, they tend to recruit more from their own relatives. If those recruited are non-kin, they are close friends. However, I do not wish to suggest that Mestizos do not recruit high government officials, successful professionals, and wealthy businessmen for compadres. Mestizos also appreciate the need to have patrons in high places. The Otomies are not recruited for padrinos of Mestizo children. Essentially, there are two reasons for this. First, the Otomi has a low social status and the Indio identity is strongly stigmatized as "backward" and "inferior." Because the Otomi is "inferior," it is assumed that he is incapable of performing the moral and religious obligations of a padrino. Second, the Otomi has no or limited access to power and wealth. The padrino is expected to pay for the child's baptismal costume, all the other expenses of the ceremony, and sometimes even for the fiesta (feast). The Otomi can hardly afford all these expenses, let alone the regular birthday, Christmas, and other presents which a padrino is subsequently committed to giving the child.

For both the Otomi and Mestizo, the compadrazgo relationship is a source of reciprocal rights and obligations. The Otomi accepts his subordinate role and performs the tasks asked by his Mestizo compadre. At the same time, by accepting his status, the Otomi is assured of protection and support, as well as having the expenses for the compadrazgo rites paid for by the Mestizo compadre. The Mestizo in order to assert his claims of social superiority must be willing to carry out his economic responsibilities to the Otomi. The compadrazgo system thus becomes a vehicle for distinguishing the Mestizo from the Otomi by the process of delineating and separating the role and status of the patron from the client. Thus, the difference between the Otomi and Mestizo is not entirely hierarchical; the difference is also articulated in ethnic terms. To be an Otomi is to be a client-beneficiary; to be a Mestizo is to be a patron-benefactor. The compadrazgo system is mutually beneficial since both Otomi and Mestizo get what they want from the relationship. It might further be suggested that the compadrazgo system allows the amiable allocation of economic resources, while at the same time providing a social stage for ethnic identification.

In the political arena, both Otomi and Mestizo agree that the basic qualifications for a public office are education and political experience. Consequently, the election of an Otomi to a public office is a rare phenomenon. While the educated Otomies feel uncertain of their abilities to hold public office, they are also considered by other Otomies as politically inexperienced. Otomi respondents explain that they are hesitant to vote for an Otomi for a public office. In general, political leadership is defined as belonging to the set of "official roles" of the Mestizos. Thus, an Otomi, in order to assume political leadership, must assume a Mestizo role; he must be seen around Mestizos, he must have connections with other political leaders (mostly Mestizos), he must leave the milpa and acquire a nonagricultural occupation. He is expected to cultivate obvious visual attributes such as wearing Western-style clothes, refusing to speak Otomi in the presence of Mestizos, speaking Spanish, and discouraging his children from learning to speak Otomi. He is expected to affiliate himself with Mestizo formal groups like a church, or social and political group. In other words, an Otomi who aspires to a political office aspires to a Mestizo identity. He begins to act increasingly like a Mestizo. To aspire to a position of power and wealth, an Otomi must obliterate his Otomi identity. Bruner (1974) demonstrates a similar ethnic and social adaptation among the Toba-Bataks in the context of Sundanese expectations in Indonesia.

For an Otomi to acquire the social markers of a Mestizo identity, he must first negotiate a basic change of economic activity. Most Otomies who succeed in claiming a Mestizo status work in the town and cities and have almost completely renounced their ties with the milpas. The locus of one's livelihood determines a whole repertoire of activities and role. Once an Otomi is freed from the milpa, he can move away from the agricultural patron-client relationships which are virtually institutionalized through the compadrazgo system. Thus, one observes that among the Otomies who have established themselves in the towns, recruitment of compadres is restricted to their own kind.

As an Otomi leaves the milpas, he develops alternative economic skills. He finds employment at construction sites, restaurants, hotels, and factories, where ethnic distinctions are of little importance. In the towns, there is a conscious attempt to hide any Indian background. Since Otomies are not physically distinguishable from the Mestizos, blending with the dominant or more encompassing culture is not difficult. In the towns, the homogenization of tastes and life-styles by corporate propaganda and mass media further assists the decline of ethnic distinctions. Spanish is widely spoken, Western-style clothing is worn, friendship networks include other laborers and wage earners (regardless of ethnic backgrounds), and education is recognized as a means of further improving one's social position and earning capacity. Thus, disparity in social status and income levels is determined by economic skills and attitudes and not by ethnic membership. In the urban-factory setting, an ethnic background becomes essentially unimportant. Class boundaries replace ethnic categories in determining identity and status.

An Otomi who can perform the socially recognized signals of Mestizo identity ceases to be regarded as an Indio by both Otomi and Mestizo. He may even be addressed as "don" (a title usually restricted to Mestizos). Although he may not altogether cease to be an Otomi, from the point of view of some snobbish Mestizos, his elevated social position is publicly acknowledged by the use of don to address him and the use of the formal usted (you), also traditionally used for Mestizos. When a Mestizo ignores the improved social position of an Otomi, conflicts could arise. One Mestizo merchant addressed an educated Otomi leader with the informal tu (you) and the Otomi responded also using tu. The two became visibly irritated with each other.

Since the municipality of Otzolotepec was granted a governmental charter in 1933, there have only been three persons of Otomi ancestry who have been elected to the position of presidente-municipal (municipal president). All three have been elected within the last 12 years. All of them have six to eight years of formal education and do not work in the milpas. One of them is engaged in wholesaling and retailing corn, another operates a cornmill, and the third works with a political party as an ejidatario (communal land tenure) adviser. One of them, who is married to a Mestizo and is successful in his business, denied to this writer that he had any Otomi ancestry (although all informants maintain that his parents are Otomi and non-Spanish speaking).

It should be clear that the process of "becoming a Mestizo" is not an all-or-nothing transformation. It is, to be sure, the result of a series of choices, which are not all independent. The factors that facilitate and validate ethnic transformations are education, access to power, and economic wealth. These factors do not occur independently and exclusively of each other. The Otomi who goes to the city as a construction helper or the educated Otomi begins to evaluate and judge himself and his identity according to Mestizo standards. This process which might be called "Mestizoization" can be revealed when one asks a citified or an educated Otomi what group he belongs to. He would be most likely to answer that he is a Mexican. In urban Mexico, people seldom talk in terms of ethnic categories, such as Mestizo. Otomi, Mazahua, etc., but in terms of regional origins. When pressed for a specific ethnic group membership, citified Otomies readily gave a curt "I am a Mestizo" answer. When an Otomi considers himself a Mestizo, and more importantly, judges his actions and motivations by Mestizo standards, he can claim a Mestizo identity. If he is established in the town, does not normally speak Otomi, does not work in the milpa, then he may decline an Otomi identity. If he is educated, speaks Spanish, is economically independent from a Mestizo patron, he can claim Mestizo identity. The former presidents-municipal who claimed that he was a Mestizo had bases for his claim: He was economically secure and educated, was married to a Mestizo, and had an increasing political influence.

Conformity by members of an ethnic group to a shared norm varies in the context of a social interaction. As Cohen (1974) suggests, "ethnicity is a matter of degree." The choice of one ethnic identity over another is not maintained at all times. For instance, some older Otomies who live and work in the towns and cities may come home to the municipality of fiestas or vacations and relinquish their claims of being Mestizos vis-a-vis Otomi kin and friends. They "become Otomi" again by participating in Otomi songs and dances or speaking Otomi. There are also students who may passionately deny their Otomi backgrounds when in school in the cities, but when they come home on weekends "being an Otomi" is readily and willingly accepted. Thus, there is constant "ethnic commuting" between the Otomi and Mestizo identities, particularly among those who physically commute between the municipality and the cities.

An Otomi who has successfully attained a Mestizo identity does not completely lose his "Otomi-ness" but simply augments his ethnic repertoire. He can decide which identity is most advantageous in specific interactions and contexts and exhibit that identity accordingly. If one accepts Cohen's (1974) definition of ethnicity as competition for resources, then one sees that the Otomies with Mestizo identity are a step closer to being able to define their own ethnicity. Clearly, an Otomi who acquires a new identity and status gains not only social acceptance and economic independence but also gains access to new power relations. In the idiom and grammar of urban socioeconomic organization, a group must be able to define itself in terms of class and power. In the milpa setting, identity change for an Otomi is not an "either-or" situation or an "all-or-nothing" transformation. An Otomi who has a Mestizo status is like a duck which is able to swim in two different ponds; he finds friendship and support from the Otomies and respect and acceptance from the Mestizos.

Clearly, the movement from Otomi to Mestizo identity is limited by the number of employment opportunities in the towns and cities. Urban immigration among the Otomies is high but does not, on its own, guarantee a change of status and identity. One must also find suitable employment and housing in the city. For the Otomi, identity transformation lies not so much in shedding and gaining ethnic markers (such as language, dress, and other cultural features), as in acquiring an economic status relevant to and viable in the urban factory setting and divorced from milpa patronage and dependency. Education, Western clothing, and a network of similarly urban-oriented friends no doubt enhance the change of ethnic identity and status, but they simply provide what Leach (1954) calls the "dress" of the social situation. The crucial factor is the basic change in economic skills and outlook. Four out of every ten Otomies who migrate to the cities can validly claim to have acquired a new identity and status.

The level of Mestizo acceptance of an Otomi who has acquired a Mestizo identity varies with social context. In the cities, Otomies claiming Mestizo identity are readily accepted as long as they exhibit the social and economic signals of that identity. In the rural milpa setting acceptance is more segmental and selective. The "new" Mestizos may own milpas and hire Otomies to work for them but they are not recruited as padrinos for Mestizo children. Admittedly the social distance between the "new" Mestizos and the established Mestizos is less, but intermarriages between them are still uncommon. A "new" Mestizo may be invited to an all-male Mestizo drinking party, but not to an all-Mestizo feast. A Mestizo may invite a "new" Mestizo to drink with him in a bar, but will not invite him to his house as a dinner guest. Otomies grudgingly, and perhaps enviously, accept the "new" Mestizo as their superiors, awkwardly paying deference to them and enthusiastically recruiting them to be compadres and padrinos. In other parts of Mexico, particularly in the south, Indians who succeed in losing their Indian status are called revistados (loosely translated as "someone who has changed clothes"). In Otzolotepec no similar term is used; the term bughe, mentioned earlier, is still restricted to the established Mestizos with the exclusion of the "new" Mestizos.

When members of an ethnic group recognize that their status and identity are stigmatized, they will often refrain from articulating that identity in what Goffman (1975) refers to as the "front region" interactions. When members of an ethnic group realize that their social and economic interests can be more efficiently and effectively advanced by using other available signals besides their own, they will use them without feeling that they are losing their own identity. For instance, an Otomi politician may cultivate and exhibit Mestizo ethnic signals in order to get elected to a public office but he may not deny his Otomi identity. What he is doing is trying to negotiate an identity which will allow him to achieve his political goals. But in the pursuit of his social needs, he may wish to retain his Otomi ties and loyalties. So, the decision to exhibit another identity is not an "all-or-nothing" transaction nor an "either-or" phenomenon; it is contextual as well as gradual. One has to be able to exhibit those signals - such as speech, education, economic status, political connections, friendship networks - whenever they are necessary to support one's own claims.

The process which allows an Otomi to exhibit Mestizo identity - thereby allowing him to take the social and economic advantages of that identity - is likewise a process of formalizing social accommodations. When an Otomi "passes" himself as a Mestizo, he acts and behaves like a Mestizo. This "ethnic passing" functions as an instrument of social adjustment since it facilitates the interaction between the two groups and defines a workable modus vivendi.

CONCLUSION

The processes of interaction and adjustment discussed in this paper between disparate and dependent groups with often conflicting interests are the real matter of diplomacy. When the groups are separate nation states, with professional mediators, the activity may be more glamorous and prestigious; but its function is exactly the same. In the cases I have been discussing, the arts of diplomacy are, if anything, more necessary than between nations, because the interacting groups are not geographically or politically separated. Nevertheless, they do retain the distinct identities and loyalties which divide nations and make the practice of diplomacy necessary. And necessary on a larger scale, because of the greater number and diversity of group interactions. That is why in these cases diplomacy cannot be left to a professional cadre of diplomats but has to be undertaken as a matter of course by ordinary members of the interacting groups.

If diplomatic history is to be more than 'a record of what one clerk said to another clerk', it needs to be seen and studied as a special case of this kind of adjustment between groups with different social and (usually) ethnic identities. Nations are not the only sources of group identity, conflict and adjustment, and there are more kinds of ambassadors than are to be found at the United Nations.

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DEVELOPMENT, DIPLOMACY, AND THE THIRD WORLD

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In the period following the Second World War, the traditional structure of imperialism was shattered, enabling many nations to become politically independent. They soon found out, however, that a second struggle for economic liberation had to be waged so as to ensure the success of the first. This led to a continuous upsurge of popular movements for national independence in the Third World which eventually resulted in the predominance of anti-imperialist forces in the United Nations. However, the industrialized countries continue to dominate the international economic order. In alliance with dominant elements in many Third World countries. industrialized countries retain sufficient power to prevent major changes in national styles of development.

In the 1960's and 1970's, in response to the clamor of the developing countries, the United Nations launched its program for the First and Second Development Decades. The amount of assistance provided in both decades fell far short of expectations, and the United Nations program was adjudged a disappointing failure. In May 1974 the General Assembly approved, with reservations on the part of the United States and other industrialized nations, the Declaration of the Establishment of a New International Economic Order (NIEO). This Declaration emphasized the need to give a developing country access to the achievements of modern science and technology. In December of the same year, the General Assembly approved the Charter of Economic Rights and Duties of States and renewed the call for the establishment of the NIEO. In September 1975, it approved a Program of Action, which enjoined the international community "to expand significantly the assistance to developing countries in research and development."

The gap between the developed and the developing countries has an intellectual dimension. To the extent that the development of Third World societies is a function of the transfer of technology, the technological dependence of the developing countries on the developed may be said to be essentially intellectual in character. The fact is that the technological revolution in the industrialized societies has also made them outstanding centers of knowledge. By harnessing their capital resources and skills to the expansion of knowledge, they have been able to achieve an exponential growth in productive capacity. Thus, the existing disparities in the economic and social progress of nations and the unevenness of their intellectual and scientific development are related to each other in a vicious circle of cause and effect that must be sundered.

Giving the less developed countries greater access to the benefits of science and technology is now widely recognized as a vital component of international cooperation. Such cooperation must aim at the establishment in developing countries of a solid foundation for scientific research which would enable them not only to use the knowledge transferred from the developed countries but also -- and more importantly -- to generate their own centers of knowledge.

Strengthening the capability of institutions in developing countries for research, advanced training and dissemination of knowledge is essential to economic and social development. Knowledge is, of course, a value in itself and so is the advancement of knowledge. But higher than either is the value that attaches to the utilization of knowledge for the improvement of the human condition.

"Knowledge is power." The converse form of the well-known saying, less familiar but equally true is probably more relevant and timely. "Power is knowledge." That is to say, power commands knowledge; it can buy, hoard and ration knowledge, or it can advance knowledge as well as diffuse it. Knowledge can be manipulated so that it becomes a monopoly of the few who can afford it, or it can be shared so that it becomes the heritage of all.

The questions with which we are concerned in this paper involve concepts of development that underlie the joint efforts of aid-giving organizations of developed countries and the cooperating institutions of developing countries. The four basic questions are: First, what is development? Second, development for whom? Third, development by whom? And fourth, development by what means?

During the past few months, I participated in a world-wide survey which sought answers to these very questions. In December 1970, I was asked by the United Nations University, in Tokyo, to serve as Chairman of an International Study Team to survey international efforts to strengthen the capabilities of Third World institutions for research, advanced training and dissemination of knowledge. To this end, the Team visited 35 external assistance institutions (EAIs) in seven countries of Western Europe, the United States, Canada and Japan, as well as 35 research and training institutions (RTIs) in ten developing countries: India, Thailand and the Philippines, in Asia; Nigeria, Cameroon, Morocco and Senegal, in Africa; and Mexico, Colombia and Brazil, in Latin America. Essentially, we wanted to know, first, what principles and policies guided both EAIs and RTIs in undertaking joint programs of research and advanced training; secondly, what external assistance has done for RTIs; and thirdly, what it has done to them. Having just completed and transmitted our report to the Rector of the University, I would like to give you a rapid preview and overview of our findings as well as the gist of our conclusions and recommendations.

In the 1950's and '60's, the governing principle of foreign aid was that the development of Third World countries would require economic growth along lines parallel to those followed by the industrialized countries themselves. It was assumed that the benefits of such growth would automatically trickle down to the poorer sectors of the society. In the '70's, while growth was registered in the Third World in terms of the standard indicators of economic output (about 5 percent per year, on the average), the condition of the poorer sectors, which include the majority of the population, stagnated or worsened.

The emphasis on economic growth is based on a misreading of the causes of Third World underdevelopment. The persistence of poverty in developing countries is due to two related phenomena: 1) exploitative social structures, particularly the concentration of productive assets in the hands of an elite group to whose members the benefits of economic growth mostly accrue; and 2) the international division of labor created and maintained by the industrialized countries, according to which Third World countries are reduced to the dual role of suppliers of primary raw materials and partially processed light manufactures, and importers of capital goods and technology from the developed countries.

Collaboration between EAIs and RTIs is usually based on the assumption of a balance struck between the donor's prerogative to determine priorities for funding and the priorities as defined by scientists, policy makers and administrators in the recipient country or institution. This however, is questionable at best since funding is the crucial factor.

A ranking administrator at the University of Yaounde, Cameroon, described what may well be the typical experience in the determination of areas of assistance:

> Foreign assistance does not always produce the kind of positive impact it should have largely because of the diverging interests of donor and receiver. For example, the fashionable focus of development in the donor country may be

environment, whereas the receiving institution may regard malnutrition as the most pressing problem of the country. This conflict is usually resolved in favour of the party holding the purse strings.

Under certain conditions, the process of determining research areas may not even qualify as a true bilateral transaction, since the RTI may only be serving the research needs of the EAI. At Kasetsart University, Thailand, the position was put in these terms:

> The aid-giving institutions unilaterally prepare their short-range and long-range programmes; they view their problems and areas of interest from a global perspective and identify the institutions in each country which can be of help in solving these problems and expanding their areas of interest. Their aid then goes to these institutions.

This is supported by our own experience at the University of the Philippines. For example, the availability of funding for population research has drawn most of the sociologists to such studies, to the detriment of other critical areas of research such as the impact of economic growth on the poorer strata of Philippine society.

These pragmatic concerns apart, it cannot be denied that donors play a dominant role in the determination of research and traiing areas. This is because "any collaboration between unequal partners inevitably leads to domination by the better equipped, better financed, and better trained partner."

Nevertheless, partly as a result of external assistance, Third World researchers have developed increasing confidence in themselves and acquired greater capabilities. They are asserting their right to participate more actively in the determination of research and training areas. For their part, the EAIs, finding that their development strategies have often exacerbated inequities or produced unexpected adverse consequences in the host country, have been encouraged to let recipients play a greater role in decision-making. They have modified their external assistance objectives, the extent of the change being determined by the overall economic policies of the donor countries, the views of the EAIs' financiers in the case of private U.S. foundations, or, in the case of the U.N., the broad guidelines of General Assembly resolutions formulated according to the relative strengths of the different "blocs" within the organization.

Since they are less vulnerable to the pressure of political and economic interests of individual nations, U.N. agencies are playing a lead role in enhancing the participation of recipient RTIs in determining external assistance areas and setting their own priorities. For instance, the basic guideline of the U.N. Development Program (UNDP) is "reaching the poorest and most vulnerable sectors of societies and enhancing the quality of their life" — a principle which also applies to all of UNDP's executing agencies. Thus, ILO recognizes "the necessity to innovate, and to devise a new pattern of development that would give a higher priority to expanding the number of income-earning opportunities as a means of ensuring a better distribution of the benefits of growth." This approach was the cornerstone of the World Employment Program launched by ILO in 1969. Highly significant in this connection is the work of the U.N. Research Institute for Social Development (UNRISD), which is mandated to focus its research on social development, in contrast to economic growth. It has conducted research in the problem of social structures in the Third World and the impact of economic growth on the poorer sectors of these nations.

The International Development and Research Center (IDRC) of Canada and the Swedish Agency for Research Cooperation with Developing Countries (SAREC) have responded positively to the Third World demand for a larger measure of self-determination. Their policies are based on the belief that developing countries must be encouraged to study their own societies and to propose fundamental reforms, including structural changes which would improve the lot of the poorest sectors. IDRC not only permits but insists that RTIs set their own priorities. As a result IDRC 1) participates in the determination of priorities only when it is invited to do so; 2) refuses to set forth a catalogue of IDRC-determined research needs; and 3) supports research only if it is clear that the recipient places a high priority on the subject of the research.

The Ford Foundation has shown increasing interest in the building of indigenous competence in economic, technical and other fields to enable Third World countries to pursue any development strategies of their own choice. The goal of external assistance, in its view, is to enable developing countries to do more and more for themselves. The U.S. AID, the world's most massive bilateral assistance program, and, for well known reasons, also the most difficult and the slowestto change, has responded to the growing clamor for a modification of its basic approach to foreign aid. Whereas it used to try "to build little Americas" wherever it went, AID now recognizes that "developing countries have the right and responsibility for their own decisions, and that frequently the weight of knowledge and wisdom is on their side." AID's educational assistance program has increasingly become "development problem oriented"; in particular, it now favors funding education as a component of other development sectors.

This shift in external assistance policies emphasizes the need for research and advanced training: research in order to identify the real development problems of the Third World as opposed to Western conceptions of such problems, and advanced training so as to provide the Third World with a cadre of scholars and scientists steeped in knowledge of their countries' condition and possessing the necessary skills to contribute to its amelioration.

The changing balance in EAI/RTI perceptions of assistance has resulted from a growing spirit of self reliance in Third World countries and a corresponding emphasis on the need for increased economic and technical cooperation among developing countries (ECDC and TCDC). This view is underscored by a statement heard at the All India Institute of Medical Science, New Delhi:

> We don't regard self-reliance and external assistance as mutually exclusive. The important thing is to have the guts to ask for what you want and to get in on your own terms. Another way is to try to alter the conception of foreign aid which has traditionally been based on a rich-country/poor-country relationship. For instance, India and the Philippines can collaborate in establishing a medical center in either of them which would eventually cater to the health and medical needs of the Asian region. The countries in the region can develop their medical technology nationally as well as regionally. Later this technology can be interchanged or mutually shared. To push such a program, one may seek and utilize aid from developed countries, with no strings attached.

With the emergence of alternative models of development the situation is being reappraised. RTIs are fast learning to act collectively, realizing that their interests can be better served by closer cooperation among Third World countries. They are moving away from total dependence on North-South relations and are actively promoting South-South cooperation. As has been shown, this has compelled the EAIs to redefine their goals and redesign their aid programs from top to bottom. Many of them are breaking new ground in the theory and practice of external assistance.

Most Third World countries and their RTIs prefer assistance that can provide them with expertise in areas of need. They regard mutually determined projects financially supported by other donor and host countries as ideal. Such a format facilitates the planning, execution and monitoring of projects while providing the local staff with training in program management. It also strengthens the knowledge-base of RTIs since highly experienced and capable foreign personnel are usually involved.

To prevent the "denationalization" of Third World fellows who are trained in the West and become conduits of skills and values that are irrelevant to their national societies, RTIs have expressed preference for staff development in situ. This type of assistance conforms with the prescription of the United Nations Conference on Science and Technology for Development (UNCSTD) recently held in Vienna: "...the most important task for developing nations is to build endogenous capabilities -- and these capabilities can be reached only if science and technology become self-generating, and if they are more fully mobilized to serve the specific socio-economic development needs of particular countries..."

In budgetary terms, most Third World countries emphasize the importance of research projects on innovative indigenous technologies. Some, however, are spending large sums in high technology research. For example, India is engaged in space and nuclear projects while Brazil is devoting substantial resources to develop products for export. Yet there are not enough funds for the study of social structures that impede the development process. This means that many Third World governments have not yet established firm parameters for their research priorities. They have not encouraged scholarly investigation into their social and economic conditions.

Exceptional is the case of the Colegio de Mexico, one of the most exclusive and richly endowed RTIs in the Third World, specializing in social science and the humanities. To the accusation of being elitist, hte President of the Colegio replies that while it may appear to be elitist in form it is not elitist in its purposes and principles. According to him, all its programs are geared to the improvement of the life of the Mexican people, many millions of whom are destitute and poor. He regards external assistance to the Colegio to have been generally positive. Negative effects have been avoided because it is the Colegio that seeks assistance for every specific purpose previously defined and agreed upon by its own staff.

In his own words:

> What we have in Mexico is a "revolution in slow motion." The Colegio tries to get the revolution moving by concentrating on social science research. But in social science one can say a lot of nonsense. And there is the phenomenon of "sociologists in the clouds."

Third World authoritarian regimes with a developmentalist orientation have tended to emphasize scientific-technological research. They recognize its value in promoting economic growth, the results of which are immediately visible and, they hope, beneficial to their own political rule. Such regimes are enamored of instant development but avoid like the plague such issues as the redistribution of wealth and the eradication of poverty.

Bilateral aid agreements are therefore pushed when they are thought to be advantageous to the developmentalist states. This explains the emphasis on support for certain development programs in many developing countries including the Philippines. Most such programs are concerned with pressing social problems like malnutrition, overpopulation, low agricultural productivity, etc. -- programs that are topical and useful but which deal only with the symptoms, not the causes of Third World underdevelopment.

Developmentalist regimes are mainly concerned with the mobilization of productive forces, the advancement of the traditional economic sectors, and the expansion of the national economy in aggregate terms. Social science research, since it tackles the core of the development issue, has received little government support except in a few countries like Mexico. Most host countries want to control research so as to utilize research results for their own purposes.

Conditions in industrialized countries and in the Third World generally do not favor research of the system-questioning type, that is, research in structural changes and unorthodox social theory. Since EAIs are essentially institutions of the status quo, they prefer research for system-maintenance. At the same time, Third World RTIs have produced intellectual leaders and policy-makers who for the most part reflect the views of their counterparts in the industrialized countries. Indeed, many Third World societies have devised highly efficient strategies for the cooptation of intellectuals. Because income from academe is meagre, academics are forced to market their skills wherever the money is. In addition to these economic compulsions, powerful political pressures operate on elite groups in Third World countries. In order to help keep their societies under control these countries are obliged to support suppression of human rights, including academic freedom.

It is significant, however, that in the 1970's a number of EAIs, including UNRISD, IDRC, SAPEC, and the Ford Foundation have encouraged research in structural changes and given varying degrees of support for unorthodox social theory. For this purpose, the ideal vehicle is of course untied or lump-sum research grants.

Rich country models of development have been dominant for so long that Third World administrators, policy makers and social socientists will be influenced by them for some time to come. DTIs, as well as the government agencies themselves, are vulnerable to social and political pressures. RTIs are manned by real people; their work in research and training is a means of livelihood, rarely a crusade. It is not always certain whether they will make the effort to understand the theoretical and cultural framework in which they function, the vested interests built into the activities of their institutions, and the conflicts, social as well as individual, which constrain their activities.

Donor agencies are not less vulnerable to the social and economic forces in their own countries. In fact, many donors frankly admit that external assistance advances their own economic and political interests. What is in dispute is whether the donors' gain from their external assistance programs results in a corresponding loss to recipients.

As regards knowledge dissemination of Third World countries, the major problems arise mainly from lack of funds for books and publications. A poor Third World country will put up any number of radio or television stations, but will neglect its libraries and refuse to make publication costs low enough to encourage printing and reading. Radio and television are effective for the diffusion of information. But the written word on a printed page (or its electronic equivalent) is the only way fundamental knowledge can be advanced -- not by listening to the radio or looking at the idiot box.

In much of the Third World at present, authoritarian regimes predominate. These regimes, regardless of the degree of their repressiveness, are inherently hostile to freedom of thought. They may declare that only "subversive" ideas and acts are prohibited, not mathematics, physics, romantic poetry or classical ballet. But, in the end, the intellectual climate of the entire society will sicken, and novel ideas and imaginative insights will cease to grow in the social sciences and the humanities -- and eventually in the natural sciences as well.

There is evidence that a certain equilibrium between EAIs of the developed countries and RTIs of the Third World is being achieved in a number of countries in Asia, especially Southeast Asia. Here many RTIs have developed the capacity to say to the EAIs, without rancor or insolence: "This is the kind of help we would like to have from you. Let's sit down and talk about it." By contrast, in most countries of Latin America which have had foreign aid for a much longer time and are therefore somewhat spoiled, the RTIs first say No, in a loud voice, as a matter of principle. Later, they may relent, and talk. But in Africa, being relative newcomers in the game, the RTIs need to learn to say No, more firmly, and more often.

Do developing countries really need all the research they are trying to do or to develop the skill to undertake? Not really, or not immediately, anyway. But research, like vitamins, is good for the health, or like prayer, is good for the soul, of an academic institution. One thing is certain: in much of the Third World today, academic research is the only avenue open to freedom of inquiry and freedom of thought, the only way to break the state monopoly and control of knowledge and information.

When all is said and done, the fundamental question remains: Development for whom? And the answer is: For the people who are poor -- the deprived and marginalized majority in any Third World country -- not the affluent who do not need it nor the elite who do not deserve it.

But to say that development is for the people is not enough. There is no guarantee that the people would reap the fruits of development unless the development process itself is in their hands. The people are not mere objects of development. They are the prime-movers as well as the beneficiaries of development. Strategies of development must therefore spring from their initiative and respond to their basic needs.

Development cannot take place without basic structural changes which the people themselves must bring about. Development therefore requires, as a prior condition, the conditioning of the consciences of people so that they become aware and have a clear view of their role in the development process.

What is needed is a concept of development that is both relevant and meaningful in the context of the social reality that obtains in the developing world. As stated in the Charter of Economic Rights and Duties of States, "the responsibility for the development of every country rests primarily upon itself."

To constitute genuine international cooperation, external assistance must be designed in correlation with the whole development process so as to uplift the entire social environment in a developing country. Because it is a component of foreign aid, a programme of assistance for research, advanced training and dissemination of knowledge is held suspect in much of the Third World as a form of academic imperialism -- an intellectural medium to promote the political or economic interests of foreign countries.

Any effort to strengthen capability for research, training and dissemination of knowledge in a developing country should meet the requirement that it springs from the effort of the people to pursue a style of development which faithfully reflects their values and aspirations.

It is a view widely held in the developing world that foreign aid -- including educational, cultural, and scientific aid -- confers more benefits on the donor, in the end, than on the recipient. It blesses him that gives more than him that takes, and in a sense other than spiritual. Therefore developing countires should be more selective, discriminating, and even critical. Giving assistance to developing countries has become a necessity for the donor countries themselves -- a necessity in terms of their own political and economic self-interest. Altruism is no longer emphasized for the simple reason that as a factor in the transaction, it has been greatly exaggerated.

When, therefore, Third World scholars insist that "foreign aid", being no longer a valid concept, should yield to "international cooperation", the distinction is not a mere verbalism. It is based on fact. It is true of even the poorest Third World countries since they in fact always give away more than they receive, in the long run.

Let me conclude by referring to the subject of management, which after all is the theme of this lecture series. I quote the words of an outstanding Colombian educator whom we met in Bogota:

> Management is useful, but it is only a tool. Management is important but it cannot be more important than the thing that is managed, which is human and social development. Such development is essentially a humanist enterprise which can no more be left to the technocrat with his computer than to the do-gooder with her bleeding heart. Management is not an end in itself but only a means to an end, the end being the improvement of the human condition -- in freedom and through freedom.

TRANSFER OF TECHNOLOGY TO DEVELOPING COUNTRIES
A Challenge to International Diplomacy

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> "Janus . . . an ancient Latin divinity, . . . presiding over gates, doors and passages, he was the protector of entrances and departures . . . with two faces . . . looking in opposite directions . . . and was worshiped as god of beginnings."[1]

I. INTRODUCTION

The scene today for most of the developing countries is grim indeed. Those states now contain seventy percent of the world's population. Yet, they account for less than seven percent of the world's industrial production.[2] Indeed, the tragic truth is that in recent years the enormous development gap between most of the developing and developed countries has widened, not narrowed. However, around the world expanding populations with rapidly rising expectations in a context of swift social and political change are insistently demanding satisfaction of basic human needs. The stage is set for global crisis.

Fortunately, however, the means to meet this compelling need for national development is at hand: the massive stock of technology at the disposal of the developed states and their business enterprises. Further, the institutional system to convey the needed technology to developing states exists. This is the cooperative process for the transnational transfer of technology, which we refer to here as the "transfer process."

In this study, we focus on the operation of the transfer process in transferring technology to the developing countries. We appraise that operation of the process from the standpoint of a responsible citizen of the world community seeking to provide explanation and recommendations to officials and other responsible citizens. We consider three principal topics in the study: the operation of the transfer process; the important potential promotional roles of three groups of participants in the process: business enterprises, developed states and international organizations; and the implications for promotion of the process steming from its regulation by the developing states. From the perspective of global community policy, it is imperative that all participants in the transfer process promote the most extensive, rapid flow of useful technology possible to the developing countries. To achieve that objective, perspectives favoring promotion of the transfer process are vital. Thus, we emphasize the feature of perspectives throughout the study. The perspectives of the developing countries are especially essential. This is so, not so much because those states are a major category of participants. Rather, it is because in their regulatory role they stand like the Roman god, Janus, at the "gateway" for national entry of technology. Also, like Janus, they display two faces, "policy faces," often looking in opposite directions as regards promotion of the transfer process. We shall see many illustrations of "Janus of the two faces" in this study.

In Section II, we first sketch the world context in which the transfer process operates. That context is: our "world community;" the increasing interdependence of all inhabitants of the community and the increasing rate of international cooperation that reflects that interdependence. The transfer process in which states and other entities cooperate in meeting technological needs is but one illustration of the larger system of general international cooperation. We then provide a description of the features of the transfer process, focusing on the transfer of technology to the developing states. Although sufficient for our purposes here, we note that the description is brief and impressionistic. A very valuable task would be to describe fully all of the technology transfer process; to specify the many claims for legal decision arising from the process; to clarify community policy regarding those claims, and to analyze and appraise the legal trends of decision on those claims.

In Section III, we discuss the potential promotional roles that the business enterprises, developed states and international organizations could play in the transfer process. There, we see the significant contributions that are possible from each category of participants. We also note the problem of adverse perspectives. In Section IV, we survey several aspects of the developing states' regulatory policies involved in their regulation of the transfer process. We appraise those regulatory policies from the perspective of the effect on the promotion of the transfer process.

II. THE PROCESS IN CONTEXT

A. The Contextual Setting: The Trend Toward Increased

International Cooperation

Upon observing the world scene of today, we may conclude that there exists a "world community,"[3] in that the increased intensity of the social process of interaction among its inhabitants has resulted in a high level of interdependence among the peoples of the world, and an increasingly widespread recognition of that interdependency."[4]

> "One of the most marked trends in world politics in the current era stems from the rapid growth of influential interdependencies throughout the international system. The notion of interdependence refers in this context to the extent to which actions or events occurring in one part of the international system affect other parts of the system . . . . (T)here is no doubt that at the present time, levels of systemwide interdependence as well as interdependencies in many subsystems are rising to unprecedented heights. As a result the notion of 'one world' will certainly be an increasingly relevant one in the foreseeable future even though relations between individual units of the international system may be anything but harmonious."[5]

This world social process may be described in terms of participants who, with varying perspectives, act in a variety of situations to achieve their goals by means of the employment of strategies utilizing the power, wealth and other base values at their respective command, with resulting immediate outcomes and long term effects for the respective participants and for the world community as a whole.[6] The increasing interdependency in the world social process is resulting in an increasing degree of international cooperation of states and international organizations in the employment of strategies for the attainment and protection of national power, wealth, technology and other goal values.

Surely, one of the most vital goals of any state is to maintain and increase its level of technology. In this study, with our general focus on the economic development of the developing countries, we refer to "technology" in its broadest sense. We refer not merely to that which is embodied in traditional, restricted, and varied conceptions[7] of "industrial property," "trade secrets," or "know-how." We include, also, any information in whatever form that may be of value in assisting the performance of any activity in the economic sphere. Also, we emphasize that, while our discussion of international technological cooperation normally focuses on its economic importance for the production of goods and services per se, technology is indeed an essential resource for all facets of national power and human well-being.

Clearly, national societies do not now rely, and never have relied, entirely on their own members to develop required technology. From the earliest period of humanity, undoubtedly groups acquired technical knowledge and skill in trans-community relations. In past centuries of nation-state relations, and at an enormously increased rate in recent decades, transnational transfer of technology in varied forms has occurred in what we refer to as the "transnational transfer of technology process" (hereafter, the "transfer process"). That states have cooperated in this transfer process in the past, even if by no more than being a very passive "Janus at the gate" in permitting without interest whatever rate of inflow-outflow of technology their inhabitants desired, is self-evident. If not, the process could not operate. Indeed, however, the trend is toward increased cooperation in the transfer process. We emphasize this, since in the storm of present controversy concerning the appropriate modifications in international and national policies and rules that regulate or affect the transfer of technology to the developing countries, one may lose sight of that fact.[8]

The scene today for the developing countries is one of expanding populations having rapidly rising expectations for the satisfaction of basic human needs in a context of swift social and political change. A global crisis situation of the highest magnitude, a crisis for the economic, social and political stability of the world community, will soon arise if the world community does not act promptly to provide effective assistance to satisfy demands fundamental to the sense of human dignity. Peoples and their governments, both in the developing countries and the developed countries, are in general becoming more aware of the global risks involved.

Fortunately, at this same moment in human history, we are witnessing an ever increasing surge of technological development. As never before,

> "Human ingenuity and intelligence are engaged in the highly rewarding endeavors of relieving human hardship, curing sickness, liberating the human spirit, and providing conditions for enjoyment of life."[9]

This white-hot pace of technology, if effectively brought to the relief of the peoples of the developing countries via the technology transfer process, offers realistic expectation that their needs can be met. National and international officials realize this.

Thus, compelling national needs, and at least a basic level of widespread commitment to international cooperation in meeting those needs, exist as a granite foundation buttressing the transfer process. The current disputes concerning technology transfers to the developing countries deal not with need for the transfer process to occur, or even with the need to intensify the rate of transfer. Rather, the controversy is over the appropriate international and national strategies that, from perspectives of equity to all parties concerned and of efficiency, will best promote the optimum flow of useful technology.

However, lest we be charged with an excessively optimistic view of current international relations, we also note that cooperation in the transfer of technology to the developing countries, as with any other area of international cooperation, is not developing at an optimum rate. Further, national governments display varying degrees of acceptance of the need for compromise and balancing of conflicting special interests in promoting the overriding global community interest in the most rapid and effective flow of technology to the developing countries. As we shall see in the discussion in Section III on the potential role of developed countries in the transfer process, far more promotional effort is possible.

One would be pedantic to list the many variables of external conditions and attitudes existing today in the world community that hinder the optimum flow of useful technology to the developing states. Many are the same that hinder the general process of international cooperation, and we will in subsequent discussion necessarily comment on some of these contextual variables. We speak in this study from the perspective of a responsible citizen of the world community, one dedicated to the achievement of global community policies. From that perspective, one must conclude, in brief, and continued national parochialism, hostile or suspicious attitudes stemming from real or fancied injustices in the past and present, and failure to comprehend the scope of potential benefits for all from the fullest cooperation in transferring technology to the developing countries, have substantially retarded the national development of those countries to the detriment of the entire world community.

Again, the concept of Janus of the two faces confronts us, this time the warring attitudes in both looking forward, positively, and backward, negatively, as regards international cooperation. The challenge is to overcome the negative faces of Janus, those conditions detrimental to international cooperation: as much as possible in the short run and eventually, eliminating them. Responsible citizens of the world community could seek no nobler task.

B. The Transfer Process

Having briefly discussed the contextual setting of international cooperation in which transfers of technology to developing countries occur, we may now proceed to describe, again briefly, the features of the transfer process.

1. Participants

The participants in the transfer process are both group and individual. The important classes of group participants are developed and developing countries, international organizations, business enterprises of private and mixed private-public nature, and other highly varied national and transnational institutions or associations of private and mixed private-public nature who in various ways, act in the process. We also note the individual, as actor in group roles, to emphasize that all groups act through individuals, and that the particular perspectives and skills of public and private officials who participate in the transfer process may be crucial to its successful operation. Furthermore, the individual may act in his own behalf as technology supplier or receiver.

In the transfer of technology to a developing country, any of the foregoing participants may act as a direct technology supplier or receiver. Historically, and still today, the principal participants in the direct roles of supplier and receiver in either a developing or developed country have been the business enterprises, principally the multi-national corporations (hereafter, "MNC's"). In 1975, the estimate is that MNC's provided 80 to 90 percent of the technology transferred to developing countries, while the figure for the developed states was 60 percent.[10] Also, subsidiaries of the MNC's in the developing countries are the receivers of the overwhelming portion of technology transferred to developing countries. Finally, the estimate is that foreign business enterprises own 95 percent of the patents in the developing countries.[11]

States, of course, can act directly as technology suppliers or receivers. At the present, the developed countries, particularly the socialist states by the very nature of their economic system, act to a limited extent as suppliers to the developing states, normally government to government. The developing countries in their relations *inter se* also act as technology suppliers. Finally, international organizations may also act as suppliers or receivers, although they are principally engaged in promoting others to act as suppliers. While for the reasonably foreseeable future, foreign business enterprises, notably the MNC's, will continue to act as the major technology suppliers and receivers for developing states, we undoubtedly may expect some increase in both categories of states acting as suppliers, and assuredly, developing countries increasing their role as direct receivers.

The principal roles for both categories of states in the transfer process have been as promoter and as regulator of the process. Performance of these roles has intensified in recent years. Understandably, the developing countries have felt much more intensely than the developed states the need to become involved in the process in both roles. However, the latter groups have increasingly perceived their interests involved in the process, and undoubtedly will play more active promotional and regulatory roles in the future.

A description of the participants in the transfer process that overlooked the major promotional role that international organizations already are playing would be indeed incomplete. The transfer of technology has enormous implications for the developing states' industrial development, specifically, and for their overall national economic and social development, generally. Thus, the United Nations and many other global and regional IS's concerned with the development of some or all developing countries have been in the forefront of promoting the transfer process. We mention especially the activities of the United Nations

Industrial Development Organization (UNIDO) and the United Nations Conference on Trade and Development (UNCTAD). We shall specify their activities in the subsequent chapter on the potential promotional role of participants.

2. *Other Features*

Our principal focus in the transfer process concerns the participants in the process. In the subsequent chapter, in recommending positive actions that the business enterprises, developed states and international organizations should consider taking to promote the transfer process more actively, we also necessarily note another feature of the process, the *perspectives* of those participants. For purposes of this study, then, we merely summarize here the other features of the transfer process. We do emphasize, however, that the analysis of any particular issues arising from the transfer process, and of the appropriate policies to apply, would require comprehensive examination of the pertinent features of the process.

a. *Situations*. The transfer of technology to developing countries may occur in a wide variety of situations:

(1) As to *number of participants*, the range may be from one extreme where all technology comes to a developing country entirely or primarily from one or a very few suppliers and where the suppliers are entities of one country (probably a developed country), to the other extreme where the suppliers are a great many and from many countries. The numbers and the foreign loci of the suppliers obviously may affect whether a developing country becomes economically, socially and/or politically dependent upon one or a few foreign statues or business enterprises, and the extent to which that country may lose the benefit of better alternative technologies or of additional technologies.

(2) A technology transfer transaction may operate over a *range of time* from a "one-shot" use for a very short-term purpose to an indefinite duration. The greater the duration of the transaction the more likely that long-term effects on the interests of the developing state will occur. Whatever one concludes as to the expected benefit or detriment of those effects, they merit anticipatory appraisal.

(3) The possible *forms* of technology transfers are several,[12] may be used singly or in combination, and each can be shaped in varied modifications. Some examples are: forms of equity investment, including joint ventures; licenses; contracts or technical and/or management services, and contracts of equipment supply. Any particular form is shaped for a particular transaction, and will contain many features, each of which may have immediate outcomes and long-term effects as regards the interests of the developing country.

(4) The *institutional patterns of negotiation and*

implementation of technology transfer arrangements by the supplier and receiver may range from the highly informal and sparse to the highly structured and detailed; may be ad hoc or continuing indefinitely, and may be quite covert or highly public. All of these features may have implications for the interests of the developing country. Likewise, competing foreign suppliers may engage in various patterns of cooperation inter se in their dealings with receivers; patterns which may or may not be beneficial to the interests of the developing country.

(5) Technology transfers may occur in a range of non-crisis to crisis economic situations in developing countries, ranging from a condition of much stability, in which the country is close to entering the category of developed states, to that of crisis or near crisis conditions, e.g., developing states only in an early stage of development and which are lacking greatly in necessary natural and personnel resources for development (some of the "least developed countries"). The needs of the developing country; its ability extensively to regulate the transfer process, and the appropriate strategies to promote any particular transfer transaction obviously will reflect the nature of the crisis level of its economic situation. We merely note here the commonplace that, without hyperbole, many developing countries could be said to be in some stage of economic crisis situation today.

b. Base Values. Participants commit base values (values at their disposal) of power, wealth and skill in support of the technology transfer process:

(1) The great bargaining strength of the foreign business enterprises as suppliers in the process stem (a) from their extensive present control over technologies and expectations that they will generate the major portion-of future modifications and new technologies; (b) their positions of great wealth and ability to secure still more through global fiscal arrangements; (c) their control over great numbers of personnel skilled in technical and managerial fields, and (d) their control over most of the intrastructure for regional and global distribution of goods and services.

(2) The developed countries have at their disposal is the transfer process substantial power in their governmental control over the technology suppliers, most of which are created under, and guide many vital decisions according to, the laws of the developed states. Further, the developed states can, and increasingly do, exercise territorial control to regulate the out-flow of technology.[13] The developed countries also directly control substantial technological skills and information, wealth, and governmental employees that are technical and managerial experts, as well as having governmental control to provide various incentives to private institutions and individuals to participate actively in the transfer of technology to developing countries. In the past, these very substantial reservoirs of power, wealth and skill have been used only minimally, relative to the potentially available contribution, to

promote the increased transfer of technology to the developing countries. Expectations for the future are that developed countries will provide additional promotional effort.

(3) Many of the regional and global international organizations that have substantial competence under their charters to act to improve the economic and social development of some or all of the developing countries have contributed significant portions of their resources to promote the transfer process. The principal resources of international organizations are their skilled employees; control over international institutions that facilitate information gathering and the development of international consensus and cooperation, and positions of respect held as entities especially created for the achievement of regional or global community policies.

c. Strategies. Participants in the transfer process employ various strategies in the transfer process. Those strategies differ in nature, intensity of use and whether used in a persuasive or coercive fashion, all depending upon the circumstances of the particular technology transfer and the participant who acts.

(1) The business enterprise technology suppliers, with their control over technology, wealth, skilled manpower, systems of global distribution of goods and services, and superior knowledge of available alternate technologies, rely primarily on economic strategies. They also rely on political strategies directly, and indirectly through various national associations, in seeking the support of their own governments in the process and in influencing the actions of the developing state government. The suppliers use ideological strategies drawing on beliefs and attitudes embodied in such terms as "international free trade," "benefits of competition," "private enterprise," "private property" and "freedom of contract."

(2) The developing country's principal strategy likewise is an economic one, the control over access to its domestic markets, e.g., its market for technologies. However, except for a thin upper tier of states,[14] most developing countries may have minimal ability to use the strategy extensively. Their great need for a wide range of technologies may be more compelling upon them then is the attractiveness of domestic markets for the potential technology suppliers. Where a developing country lacks extensive and varied markets, but does control significant amounts of a much-needed natural resource, then at least in that particular resource field, economic strategies may be effective. Developing states increasingly are engaging in political strategies in their relations inter se, with international organizations, and with developed states to secure various forms of assistance in the transfer process (e.g., direct technical and financial aid; information on alternative technologies, on technology contract terms elsewhere and on other states' systems of regulation of the process; development of uniform developing state negotiating positions and technology suppliers by the developed

states).[15] Developing states have their own arsenal of ideological strategies drawing on such concepts as national "sovereignty," "equality of states," "a new international economic order" and "aspirations of mankind."

(3) The principal strategies of the developed states in the transfer process also are economic, in their control over the business enterprise technology suppliers, and in their relations with the developing states and internaitonal organizations. One would be inaccurate to expect that a developed country's government automatically would be in full alliance with its business enterprises in the transfer process. The developed country has its own interests, and these may be adversely affected by a technology supplier's objectives or strategies. Thus, when and how a developed state employs its strategies is not necessarily determined by the desired of its business enterprise technology suppliers.

(4) The principal strategies of the international organizations are political, in their control of international institutions of information exchange, negotiation and consensus resolution of controversy and their influence with developed country governments, and economic, in their control of a pool of skilled technical personnel, a modest amount of funds and access to a substantial body of technology through relations with national governments and private scientific and technical institutions.

d. Outcomes and Effects. Any particular technology transfer will have short-term outcomes for the value objectives of the participants, and if the transaction is especially substantial or long lasting, perhaps long-term effects. Again, for the developing state, and perhaps for the state(s) of technology out-flow, the totality of transfers at any time may have still a different set of outcomes and effects. The mix of benefits and detriments will vary for each participant in any particular technology transfer transaction and the mix for any particular participant in the short run may be very different in the long run. Specific answers to questions of outcomes and effects require careful economic and social analysis. In terms of the general process, substantial dispute, rarely based on comprehensive empirical study exists regarding the general outcomes and effects. It would appear that, on the whole, most participants have benefited, especially the technology suppliers. The position of the developing states is that benefits in the past were too low, in that, first, the developing states should have received the technology transferred at lower charges and with less restriction over use, and second, that a greater quantum of useful technology should have been transferred. Thus, the developing states' contention is that proper past functioning of the transfer process would have placed them in much better levels of technological development than they now enjoy.

III. PROMOTION OF THE PROCESS--THE POTENTIAL PROMOTIONAL ROLES OF FOREIGN BUSINESS ENTERPRISES, DEVELOPED

STATES AND INTERNATIONAL ORGANIZATIONS

From the perspective of global community policy, a continuing and urgent need is to intensify cooperation in the technology transfer process to increase substantially the flow of useful technology to the developing states. We have commented briefly on the need in Section II, and we elaborate on that need here, in taking the developed countries to task for their failure to use more than a modicum of their capability to promote the transfer process more energetically. First, however, we consider the potential promotional role of the foreign business enterprises, particularly the multinational corporations. Then we deal with the developed countries and finally, with the international organization. In each instance, we offer proposals for each set of participants.

We do not overlook the role of the developing states. In Section IV, we consider a specific aspect of the developing state's role in the process, the "regulatory" role, which indeed is generally more of a "negotiating-regulating" role, another illustration of Janus of the two faces at the "national gate." In the process of viewing the regulatory role we will consider the fact that the regulatory role can have a potentially promotional effect on the transfer process.

A. Potential Promotional Role of Foreign Business Enterprises

In Section II, we pointed out that in the past, foreign business enterprises, notably the MNC's, have been the principal foreign investors and organizers of domestic industries in the developing countries. They have been the major suppliers of capital and technology to the developing states. We noted that these enterprises now control, and will continue to control, the major portion of the world supply of technology. Thus, the assistance of foreign business enterprises is crucially important to achieving the objective of rapidly and substantially increasing the transfer of useful technology to developing states.

The question is how to bring this about. At present, the fashion is for developing states to castigate the foreign enterprise, especially the MNC, for "the unacceptable practices . . . that infringe the principle of sovereignty of developing countries"[16] and more generally, for hindering more than helping to promote the optimum economic development of the developing countries. However, to appraise any private business enterprise, foreign or domestic, and certainly a MNC, as if it were expected to have identical perspectives with those of a developing state government, or any government, is most inaccurate and dysfunctional for policy analysis and recommendation. The principal objectives of any business enterprise engaged in international transactions are, in the immediate period, to gain the greatest revenue while incurring the least costs in its overall global operations, and for the indefinite future to keep ownership and control of any foreign branches or subsidiaries and to maximize its assets, such as its technological base, body of skilled personnel and physical facilities.[17] These are objectives much removed from those of any government. Foreign private business enterprises should not have been expected to have planned and carried out a development plan for the developing country in the past, nor should a developing state government expect them to contribute enterprise resources in the future, as if they were an agency of that government. One writer, in discussing the perspectives of the multinational corporation, has commented:

> "The corporation's concern in establishing branch operations in particular developing economy is not to promote the development of that economy according to any political conception of what development is, but to make satisfactory profits . . . It has no commercial interest in diffusing its knowledge to potential local competitors, nor . . . interest in investing more than it has to in acquiring knowledge of local conditions and investigating ways of adopting its own productive knowledge to local (conditions)." [18]

That writer also points out that the MNC, with its technology primarily suitable for developed countries normally will invest in adaptation of that technology to developing state conditions only to the extent that appears profitable, and will not be interested in developing new technologies appropriate only for developing country conditions.[19] We would also note that the MNC or other large foreign enterprises generally seeks economies of scale and desires centralizing, not decentralizing, such functions as research and development, or manufacturing of a particular product.

The foregoing places the business enterprise in a realistic perspective. The enterprises can not be expected to transfer technlogy or engage in other activity in the developing state unless its activity is in some way profitable to it. However, with its body of technology and pool of skilled personnel, the enterprise by more energetically inquiring into additional economic opportunities in the developing countries might perform a substantial service and receive at least a reasonable profit.

The challenge is to determine means by which the enterprises' need for profitability and security of control over valuable technology can be reconciled with the developing countries' needs for short and long-term addition to its technological base; increased employment and national income; reduced balance of payments and to increase overall the productivity and competitiveness of its domestic industry.[20] The "ambit of compatibility" of interests is the proper focus of search. Indeed, the experience of the business enterprise in a wide range of economic settings in the past demonstrates that there can be a substantial compatibility of interests. The will to understand the need for satisfaction of interests to at least a minimally accaptable degree is, perhaps, the first start. The present climate of hostile perspectives is self-defeating for the interest of the participants and of the world community.

We submit the following modest proposals, recognizing that major support from developed state governments may be required to provide significant incentive for enterprises to step up the transfer of technology significantly.

a. Access to existing technology.

(1) Enterprises should review their holdings of industrial property and other stocks of technology, and consider carefully whether certain scientific or technical data could be placed in the public domain of the developing states at little or no loss, or consider adopting the most positive approach practicable to licensing technology. Where some risk of loss of confidentiality existed or some other risk, perhaps under domestic laws, enterprises should consider approaching the governments of the developing country and their own country to explore some forms of state action to increase protection or provide fiscal guarantees if the technology were to be transferred.

(2) The foreign business enterprises presently acting as technology suppliers may, by the nature of their business activities, not have many of the technologies needed by the developing countries (e.g., in the agricultural field, and in the light industry and retail fields). Many other foreign enterprises, large, medium and small, having these technologies should consider being technology suppliers. The governments of developing and developed countries and various associations could assist in connecting suppliers and receivers and implementing the transfer for entities lacking experience in international transfers of technology.

b. Development of developing countries' technological base.

(1) MNC's or other foreign business enterprises presently engaged in technology transfers to developing countries should explore more carefully, in association with the government, the possibility of adapting present technologies to additional uses in the developing state; uses that might also find profitable markets in other developing states. Cooperation among developing countries and international organizations might be sought in this regard.

(2) These same enterprises should explore carefully the eventual benefits from developing new technologies that might find markets in many of the developing states. Efforts could be made to secure financial and other assistance from developed and developing countries in cooperation to support this effort.

(3) Enterprises presently operating in the developing countries should make every effort to provide technical educational training to domestic persons, on and off the job, and not just to employees. Some of this is done, but much more could be done and in

various informal ways that interfere minimally with work performance.

(4) Enterprises should consider assisting the developing countries in establishing research institutions, laboratories and other similar facilities. Surplus labor and materials of the enterprise may be available, and developing and developed states and international organizations may be willing to offer various assistance. Some form of shared use of present enterprise facilities might be possible. Short-term loan of experts may be possible at little or minimal cost.

B. The Potential Promotional Role of Developed Countries

When we turn to the potential role of the governments of the developed countries in more actively promoting the transfer of technology to the developing states, we find indeed an enormous gap between actual effort and that which is potential. Surely, however state governments might differ on the details of international economic relations, global community policy would call for those relations to be based on conceptions of "equity, sovereign equality, interdependence and co-operation."[21] We are convinced that such basic global community goals as international peace and justice have as one specification the alleviation and eventual termination of serious world economic problems, including the liquidation of underdevelopment in the developing countries.

At present, the developing countries contain seventy percent of the world population, but account for less than seven percent of the world's industrial production. Indeed, the tragic truth is that in recent years the development gap between the developed and developing countries has widened, not narrowed.[22] We note certain compelling facts. First, the development gap between the developed countries and the overwhelming majority of the developing countries is now enormous. Second, the need to close that gap as rapidly as possible is imperative, not only for the welfare of the peoples of the developing countries, but for the economic and political stability of the entire global community. Third, most of the developing states manifestly lack the ability to achieve even significant gains relying on their own resources.

In light of those facts, global community policy calls for the developed countries immediately to give maximum cooperation and assistance in the technology transfer process. The reality of interdependence of states is nowhere more dramatically evident than in this regard. In this light, and contrasted with the assistance that developed states reasonably could provide, the relatively meager financial and technical aid given to date by the developed states in promoting the transfer process constitutes a major failure to implement community policy. Indeed, the conduct of the developed countries borders on the irrational. In appraising the logic of their conduct, we need not merely consider the extreme costs to human well-being that result from the present levels of underdevelopment in so much of the world. We note, also, the present loss to the developed countries of the benefits from the increased flow of trade that invariably results when higher levels of national development exist on both sides of a trade relation. Finally, we note the enormous potential economic and political risks to the developed countries if the economic systems of any significant number of the developing countries should collapse.

In their relations inter se, the developed countries have learned that enormously one-sided trade relations are not only disadvantageous, but potentially disastrous. Witness the consequences of the post-World War I attempt to keep Germany in a grossly inferior economic position and the consequences of the era of extreme economic protectionism among the developed countries. Witness, on the other hand, the massive United States assistance to the defeated enemy states, and to Western Europe after World War II, and the benefits that resulted. Note the care that the officials of the developed countries continuously exercise to prevent major imbalances in trade with other developed countries. Might we suggest that the developed countries, champions of the policy of non-discrimination in international relations, are demonstrating the height of socio-economic class bias by their parsimonious assistance for the technological development of the developing countries? The responsible governmental officials of the developed countries would do well to examine the propriety of their conduct in this regard.

We provide the following list of means by which the developed states might promote the increased transfer of useful technology to the developing states.[23]

a. Access to existing technology

(1) Provide acess to available information on technolgies useful to the developing countries. Information would include the description, possible uses, availability, approximate costs, and the entity controlling the technology.

(2) Assist the developing countries in the process of assessing and adapting to their needs existing technology and systems of research and development, engineering and design.

(3) Assist developing countries in establishing and improving national agencies for locating, evaluating, and approving of transfer or securing the transfer of foreign technology. Cooperate with other states and international organizations, and/or funding international organizations to assist developing countries in these functions.

(4) Grant to the developing countries the greatest access possible to technology owned or subject to control by the government of the developed country.

(5) Facilitate access, to the greatest extent possible,

to technology owned by private entities. In the case of refusal by a private entity to transfer technology especially useful to the developing country, and for which no reasonable alternative is available, and where the transfer itself would not be expected automatically to result in severe detriment to the private entity (e.g., the concern may merely be as to profitability or uncertainties in the developing state's laws as to industrial property.), the developed country should consider such incentives as providing guarantees to the private entity; entering into an international agreement with the developing country calling for increased or more effective protection of the technology transferred, or some form of direct or indirect fiscal benefit. If the private entity has refused incentives, the developed country should consider an alternative. As part of its foreign development assistance, the government might exercise authority to take a temporary or permanent right of use of the technology in the public interest, paying appropriate compensation, and being responsible at law for protecting any continued rights of the private entity damaged after granting the right of use of the technology to the developing country.

(6) Provide credits at the most favorable terms possible to assist the developing country to be able to afford to purchase capital goods and internmediate goods to be used in a approved development project involving transfer of technology; thus allowing the developing state to secure the highest quality of technology necessary for the project.

(7) In cooperation with other states, or unilaterally, consider establishing a grant or loan fund for technology acquisition by developing states.

(8) Assist the developing countries in establishing and implementing a system of substantive and procedural law specialized in facilitating the transnational transfer of technology.

b. Development of developing countries' technological base

(1) Assist developing countries in developing new technologies by granting the greatest possible access possible to scientific and technological research data owned or subject to control by the government of the developed country. Where the data is owned by a private entity, apply the procedure set forth in "a.(5)", above.

(2) Assist developing countries in establishing and maintaining institutions for training and research, laboratories and other similar facilities. Cooperate with other states and international organizations in the same activities at the regional or global level. Assist in the actual technical and scientific training of personnel from developing countries. Provide experts for technological device.

(3) Cooperate in using to the greatest extent

practicable the services of managerial, engineering, design and technical personnel of developing countries in development projects at the bilateral and multilateral level.

(4) Provide support, including grants and loans, for projects in the developing states that will promote adapting existing technologies and developing new ones suitable to the needs of the developing states.

(5) Whenever practicable use government laboratories and other facilities, and government personnel, to undertake modifications of technology or develop new technologies useful in developing countries.

(6) Encourage and provide financial and other incentives to private enterprises and institutions to aid developing countries in the manner set forth in (2), (4), and (5) above.

C. The Potential Promotional Role of International Organizations

In Section II, we stated that certain international organizations already were playing a vital promotional role in the transfer process. In the case of the United Nations, the United Nations Conference on Trade and Development (UNCTAD) has sponsored the extremely important "United Nations Conference on an International Code of Conduct on the Transfer of Technology," and *inter alia* has a very active Transfer of Technology Division. The United Nations Development Program (UNDP) and the United Nations Industrial Development Organization (UNIDO) have also been most active. UNIDO has played a major promotional role, because it acts as the principal U.N. agency to promote the industrial development of member states, and the technology transfer process is vital in achieving the industrial development of the developing countries.[24] At the 1975 Second General Conference of UNIDO, at Lima, Peru. the document which has become the "charter" of U.N. industrial development activity, the *Lima Declaration and Plan of Action on Industrial Development and Co-Operation* (hereafter, "Lima Declaration") called, *inter alia*, for UNIDO to establish a system of "continuing consultations of global, regional and sectoral levels"[25] among developed and developing countries to consider, in light of such factors as "the possibilities and conditions of investment and the availability of appropriate equipment and *technologies*" (emphasis added), the possibilities of redeploying certain productive capacities in the developed countries to the developing countries, and of creating new industrial facilities in the developing countries. Also, UNIDO was requested to serve as a forum for negotiation of agreements in the field of industry between the developed and developing countries, and among the developing countries, and generally, to intensify its program aimed at establishing and/or increasing cooperation.[26]

Through its Technology Group (the Transfer of Technology Section and the Industrial Information Section) UNIDO has carried out activities directly or indirectly related to the transfer of technology, which we would recommend as appropriate actions for any international organization to consider whose charter authorized it to promote the technology transfer process: [27]

a. Assist in formulating national technology plans and strategies.

b. Promote flow and exchange of industrial information, including exchange of information and experience on technology agreements between enterprises in developed and developing countries; on the performance of the governmental function of regulating the transfer and acquisition of technology, and the exchange of information on provisions of technology transfer agreements.

c. Improve ability of developing countries to negotiate the acquisition of technology.

d. Provide industrial information and technology advisory services.

e. Develop an Industrial and Technological Information Bank (INTIB) to provide a centralized collection of information basic to decisions on appropriate technology to acquire.

f. Organize workshops and seminars to train national personnel in such matters as appraising technological needs, and estimating the value of technology available for transnational transfer.

g. Prepare and distribute studies on all aspects of the transfer process and its regulation by developing countries.

In addition to the foregoing, with the exception of the developed state's governmental action vis-a-vis private entities, all of the actions proposed earlier for developed state promotion of the transfer process likewise would be activities that international organizations could engage in to a varying extent.

Finally, developing countries should consider creating special regional organizations specialized to facilitate on a regional basis their cooperation in promoting the transfer Process.[28] The membership and functions of any particular regional organization would depend on the congruence of common interests. Elsewhere, recommendations in this regard have displayed implicit bias by calling only for regional organizations of developing countries. In view of the importance of securing the most extensive cooperation of developed countries, developing countries should invite entry by any developed country whose participation in the particular regional organization would seem especially valuable. Possible functions of the regional organization could include:

(a) the establishing of an information and documentation center on available technology, for visitation by government and business officials of state members; (b) the processing and distribution of such information and documentation automatically, or upon request; (c) conducting educational and training activities to increase the expertise of governmental and buinsess officials of state members in searching for and negotiating the acquisition of technology by transnational transmittal transfer agreements; (d) regional, rather than national, search for and/or negotiation for national acquisition of technology by state members, where economy of administration and use of expert personnel warranted regional action; (e) regional, rather than national, acquisition of technology where cost of acquisition or other features of the particular potential technology transfer transaction warranted regional acquisition, with shared rights of use by state members, and (f) not only regional acquisition of technology, but also, eventual regional ownership of the acquired technology. The rationale under (e), above, would also apply to (f).

Also, one might note the strong desire in many developing countries that transferred technology come under domestic ownership quite rapidly, a factor that might frequently cause a potential technology supplier to forego entering into a transfer. Possibly, as to either transfer or use or of ownership of technology, a potential technology supplier might in some instances prefer the alternative of transfer to a regional organization, with the organization the party responsible to the supplier for performance of all aspects of the transfer agreement.

IV. THE TRANSFER PROCESS AND REGULATORY POLICIES OF THE DEVELOPING STATE -- "JANUS AT THE GATE"

A. The Interests of the Developing States: The Two Faces of National Policy

Global community policy calls for the governments of all states energetically to promote the transnational technology transfer process. In previous chapters, we have discussed the reality of the world scene today that supports that policy. In preceding discussions, we have, perhaps, emphasized the interests of the developed states involved in the transfer process. In part, we have done this to dramatize the fact that the developed states are equally joined with the developing states in a web of mutuality of interest to promote the transfer process. Indeed, even as we discuss the operation of the transfer process to provide developing states access to technology, we note that one should not think of this in a fixed context of interest of "exporter" versus "importer" states. That encourages a tencency to think of the interests of states involved as not mutally inclusive, but, at best, different but compatible interests. Both exportation and imporotation of technology occur for all states. True, for the developing states, technology importation occurs at a rate far greater than exportation, but both occur. Further, most of the developed states of the world, such as France, Belgium, and the Netherlands, are net importers of technology, but still export a great amount. On the other hand, the United States, one of the few net exporters of technology, and who accounts for a substantial portion of the total world technology export market, nevertheless imports much technology to aid in meeting its high and accelerating technology needs. Thus, among states along the entire range of technological development mutual interests in the "two way street" of the transfer process exist to promote the process, inter alia, by appropriate and effective legal regulations.

Surely the need for the developing states to promote the transfer process is highly evident, since acquisition of technology is fundamental to national development. We have referred previously to that need, pointing out that for many developing states the lack of essential technology has reached crisis or near-crisis proportions. That developing states should give promotion of the transfer process high priority is the message of many policy pronouncements of those states' officials and of international organizations. A great number of specific action proposals for developing states to take, singly and in combined cooperation, exist by which those states may both exert their best efforts and cooperate with developed states to increase the flow of technology to the developing states.

Unfortunately, concurrently with their recognition of the need to promote the transfer process, the officials of many developing states all too often display attitudes injurious to the optimum operation of the process. Strident pronouncements by those officials of virtually total national autonomy in development decisions, regardless of possibly major consequences for the interests of the citizens or governments of other states, are most inappropriate. We grant that global community policy principles of "equity" and of "sovereign equality" call for deference to the interest of the developing states in "self-sustaining and integrated socio-economic development" and the "right to make the necessary changes to ensure the just and effective participation of their peoples in industry and to share in the benefits deriving therefrom."[29] Basic respect for human dignity in international relations, the fundamental principle underlying global community policy, necessarily implies both the right of state governments to shape and develop their respective economic systems and the expectation that they will rely on their own resources to the maximum extent possible.

However, those same principles and the concepts of interdependence and cooperation in satisfying national needs equally call for the developing states to consider the effect of their development policies, including those pertaining to the regulation of the technology transfer process, on the interests of the citizens and governments of the developed states. Indeed, contrary to extreme national autonomy in all development decisions, many developing states eventually will probably have much less discretion in giving up substantial unilateral political power in the economic field than existed for the industrialized states who created the European Economic Community. In their respective territories, many developing states now lack, and will continue to lack, the basic natural resources to reach and sustain a modern economy and standard of living regardless of the extent of external assistance they receive. In addition to substantial financial aid, and technological assistance via the transfer process, many developing states will have to enter into various economic forms of multinational pooling of resources and personnel, and of specialization in technical, scientific and industrial activity. This will necessarily entail various forms of political integration, perhaps in association both with developed states as well as other developing states. The sooner the governments of the developing states acknowledge that the imperatives are interdependence, not independence, and multinational sharing of authority and resources, not national autonomy, the sooner they will take realistic steps to achieve their vital development objectives. This applies quite pertinently to operation of the technology transfer process.

Likewise, suspicious, hostile, even punitive, attitudes expressed by some governments of developing states toward foreign business enterprises and developed states is self-defeating. Most developing states simply cannot hope to achieve significant development gains without assistance from all possible sources, and, as we discussed in Section III, especially from foreign business enterprises and developed states. Inherently, in its regulation of the transfer process any state government, like a modern Janus standing at the national gateway of technology inflow, will display "two faces" of policy toward acquisition of technology. Governments must balance the need to promote the process in general with the need to prevent injurious activities that may accompany technology transfers and to promote the type of transfers that will most benefit the national development. The goal is to balance these needs, to promote the greatest flow of useful technology under appropriate regulatory conditions. One cannot given an *a priori* answer to the proper point of balance in any, much less all technology transfers. All features of the context of the operation of the transfer process are relevant, such as the nature of the technology; the specific national technological needs and the extent of those needs at the time of transfer; the identities of the direct technology supplier and receiver and of governments and other entities whose interests are involved, and the nature of those interests and extent of involvement. Necessarily, the principle of flexibility in regulation based on the context of the technology transfer is vital, else one runs the risk of hindering or stopping the flow of useful technology through undue rigidity of the regulations and/or their application. If doctrinaire attitudes about national autonomy, or suspicious and hostile attitudes toward the main potential participants in the transfer process, are added to this already inherently difficult task of establishing and applying proper regulatory policies, then the developing states will very much risk the outcome that their regulatory policies will injure, not promote, the transfer process.

B. General Principles Applicable to National Regulation of the Transfer Process

1. The Applicability of International Law

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As with any other feature of transnational interaction, a system of legal regulation of the transfer process exists; a system comprised of both national and international law. Each state has jurisdictional competence, recognized in international law, to prescribe and apply rules to determine its preferred national system of public order, including its economic system, and to control persons, resources and institutions within its territory. As an aspect of this competence, the developing states assuredly may establish regulatory systems to regulate all phases of the transfer of technology to be used in their territories. The exercise of national competence is, of course, subject to any limitation under international law that may exist. Further, in exercising discretion within the range of national competence permissible under international law, officials of the developing states should consider applicable global community policies that promote the maximum technology benefits from the transfer process.

Here, as with so many other subjects in recent years, one might expect the claim by many of the developing states that they are not restricted by rules of customary international law the making of which they played no part, and which might be expected more greatly to favor the interests of developed states. Indeed, this has been the case in discussions at the CODE Conference.[30] Writers have discussed this general subject extensively. Here, we merely point out, first, that no wholesale negation of customary international law is either operationally feasible or acceptable to states, since many customary rules form the substantive and procedural matrix of the international legal process of claim and resolution of any issue, and the overwhelming body of customary international law has indeed already found explicit or implicit acceptance by the developing states (or already has been modified), precisely because most of the rules reflect the common interests of the members of the world community. Second, if there are particular customary rules pertinent to the transfer process that truly are unacceptable to the interests of the developing states, the community consensus that gave rise to those rules can be demonstrated overtly to be shattered by explicitly specifying rejection of those particular rules and supporting that rejection in state conduct. Thus, the better policy would be for the developing states to specify and seek to modify, if possible, any unacceptable customary rules pertinent to the transfer process, rather than to allow the general rhetorical broadside against customary law to have a possibly chilling effect on the readiness of the developed states and of foreign business enterprises more extensively to promote operation of the transfer process.

2. General Substantive and Procedural Principles

In exercising national regulation over the transfer process, the applicable general principles are straight forward and apply equally to all states, regardless of stage of development. Assuredly, each state, when prescribing its law on the protection of technology and on regulation of the transfer process more generally, should have regard to its national needs of economic and social development.[31] To have the optimum comprehensive, effective, legal system that favors transnational transfer of technology, there must first be a coherent system for planning national development and implementing that plan. If not, the substantive law for the promotion and protection of technology transfer and the policies and procedures by which the law will be applied may be subject to arbitrary, inappropriate and frequent shifts, damaging both to the legal protection of technology and the confidence of technology supplier in engaging in future transfers. Thus, developing states, especially, should develop "long-term, clearly defined industrialization plans and strategies" based on "introduction of concrete measures and institutional machinery for their execution, continuous appraisal and, if necessary, adjustment."[32]

The national regulatory system may be a varying extent, based on the state's view of national public interest, both limit the ambit of protected rights and of freedom of action of the technology suppliers (and recipients) in the transfer process, and create obligations to be performed as conditions for governmental approval to transfer technology. However, also pertinent to meeting its national needs, the developing state must recognize that "a close relationship exists between technology flows and the conditions under which such flows are admitted and treated. . ."[33] Therefore, the developing states need to establish both a political climate and a legal climate that potential technology suppliers perceive as promoting, and which does function to promote, the transnational transfer and use of technology.[34]

The achievement of this objective envisions regulations that on their face and in application consider in a equitable manner the legitimate interests of all participants concerned in the transfer process and facilitate transfers of technology under mutually agreed, fair and reasonable terms. Subsequent changes in the regulatory system that are pertinent to the transfer process likewise should meet this standard of equitable appraisal, with explicit reference to the need to consider the existing rights and obligations of technology suppliers and recipients who have acted pursuant to the past system of regulations. The regulatory system should promote in foreign technology suppliers stabile expectations (a) that the basic right to control for one's benefit lawfully developed or acquired technology will receive suitable deference in the developing state, and (b) that the national legal system will permit reasonable predictability regarding the outcome of administrative or judicial decisions on the usual types of claims arising in the transfer and use of technology. The necessary conditions for creating those expectations include the requirement that all laws and regulations directly pertinent to the transfer process, and the broader body of national substantive and procedural law potentially applicable, should be clearly expressed, published and readily available. Further, to the extent practicable, states should publish and make readily available the reports of administrative and judicial decisons pertinent to the transfer process. The laws and regulations should be applied by all national agencies and tribunals in accord with established, fair principles of procedure.

Further, throughout the application of the regulatory system to the transfer process, but especially at any required, initial governmental approval stage, the developing states should avoid the dangers of applying excessively detailed regulation or of taking too long to render decision. Potential foreign technology suppliers may well forego technology transfers to a developing state if they foresee an expensive, long and complex process of securing governmental approval for the transfers, or of securing other governmental administrative or judicial decision, subsequently. Also, in setting any requirements to be performed by a technology supplier as conditions for securing governmental approval of the transfer, where those requirements call for the supplier to contribute various resources to aid in furthering the developing state's development goals, the state must not only fairly estimate the costs to the supplier, but also, realistically balance its own interests. Officials of developing states must recognize that many regulatory restrictions on the supplier's activity in the transfer process, and, even more so, mandatory performances, represent costs to the supplier. If the regulations of the developing state in the transfer process result in too much "extra freight" of cost to be carried by the potential suppliers, many will not engage in the process. What one writer has said specifically for transnational licensing is true for all forms of transnational transfer of technology:

> "Ultimately, licensing is primarily a business proposition and as such it must be profitable to both parties, else it must not be entered into."[35]

Certainly, an important objective is for the developing states to eliminate substantive or procedural gaps or inadequacies pertaining to the transfer process that may exist in their current regulatory systems. This will aid in avoiding uncertainties or misapprehensions that may discourage technology transfers from the outset, and also, in reducing the possibility of unforeseen, damaging governmental decisions in the future. In some of the more industrialized of the developing states, substantial progress has occurred in this regard.[36] In many other developing states there are substantial legal gaps and inadequaies for the protection of private use of technology specifically, and for the regulation of the transfer process, generally. In some cases, national societies moving from earlier periods of development simply have little or no law deaing specifically with these subjects. In other cases, regulations were adopted or carried over from colonial periods, and have not been modified to meet present conditions in modern technological development.[37] In this regard, in the dicussions in the CODE Conference, a consensus of the developed and developing states appears to exist that states should be sure that clarity and comprehensiveness of national regulatory policies and rules pertaining to the transfer process should exist as to the following important matters:[38]

a. Substantive and procedural aspects of governmental activity in analyzing and evaluating potential transfer of technology transactions to assist the supplier and recipient in their negotiations;

b. Substantive and procedural aspects of any required prior or subsequent governmental approval of transfer of technology transactions and of national registration of that approval;

c. The regulation of foreign collaboration arrangements that could displace national enterprises from the domestic market;

d. The definition of fields of activity of foreign enterprises and the available choice of channels, mechanisms and organizational forms for the transfer of technology;

e. The nature of the technology specifications and standards required for the various components of the technology transfer transaction, and of the payments for those components;

f. The nature of the required "mix" in the use of local and imported technology components;

g. The terms and conditions and duration of the proposed technology transfer transaction;

h. Pricing policies, tax treatment, transferability of payments, currency regulations on foreign exchange payments and remittances, and conditions of domestic credit and financing facilities;

i. The national mechanisms for implementing and applying national laws, regulations and policies on the transfer of technology, and

j. Legal consequences for technology transfer transactions that do not conform with national laws, regulations and administrative decisions.

As an aspect of filling the gaps in national law, the developing states, in order to have a comprehensive system of legal prescription relating to the transfer process, should become parties to various pertinent multilateral agreements, such as the Paris Convention on the Protection of Industrial Property.[39] These agreements contain substantial portions of the law making up the interlocking international-national system for the protection of rights in technology.[40] Many developing states already are parties to the Paris Convention. By becoming parties to these agreements and incorporating them into their national legal systems, the developing states will create an enlarged, appropriate body of law for their regulatory activities at both the international and national level. Further, the very act of becoming parties to these multilateral international agreements will demonstrate the developing states' commitment to the promotion of technology transfers in accord with international community policy.

Perhaps, some developing states will not choose immediately to become parties to multilateral agreements such as the Paris Convention. Although less desireable from the perspective of global community policy, those states, on the basis of their respective diplomatic relationships, should consider entering into bilateral agreements, especially with developed states, that incorporate the provisions of these multilateral agreements. At the least, where a potential technology supplier considers certain provisions of an international agreement useful, but the developing state concerned is not a party, the technology supplier should seek an agreement with that state giving the benefit of those provisions to the particular technology transfer transaction.

B. The Protection of Private Rights in Technology by Developing States

With the foregoing discussion of general principles as a frame of reference, we will next consider an area of substantive law of a developing state that is very crucial to the promotion of the transnational technology transfer process, the nature of the state's protection of rights in "industrial property" and in technology, more generally. National law as to protection of rights in technology is not a body of rules devised specifically for regulating the transfer process. Its implications, domestically and internationally, are broader. However, most assuredly, an adequate, internationally acceptable body of law protecting rights in technology used in the developing states, whether created by legislation, treaty or special contract, is a necessary condition for any significant operation of the transfer process.[41] For purposes of illustration, we consider the problem of developing states' patent laws. Again, as throughout this study, we emphasize that our discussion is brief and highly impressionistic, suggestive of the much greater effort required for definitive, conclusive research and analysis in the subjects considered in this study.

In all states recognizing private rights in technology, for example, through the system of patents, an unavoidable tension exists between the public interest in protecting those rights in order to promote technological development and the public interests in promoting the widest, most rapid use of the technology and in preventing the abuse of legal protection to gain advantages beyond the ambit of the purpose of protection. Even if a state refused to recognize private rights in technology normally, we suggest that in order to secure essential foreign technology via the transfer process, the state would have to create a special protection system for foreign suppliers. There, the same tension in policies would exist. In resolving this conflict of policies, the government of any state must strike a proper balance.[42] Undue weight to the interest in promoting technology acquisition can result in allowing practices that unjustifiably restrict future use of technology; retard the development of new technology, and limit the enjoyment of benefits of production, distribution and consumption of goods and services based on protected technology. Undue weight to the interest in restraining monopoly can discourage technological development from the outset, due to the perceived low permissible gain and/or other detriments under national law. In the context of our discussion, this adverse imbalance in the law of developing states may discourage potential foreign technology suppliers from entering into transfer transactions.

Restrictive practices, such as export restrictions, that frequently accompany the transnational transfer of technology are often based on exclusive rights conferred by patents and other forms of industrial property. Further, inherent in recognition of such rights are risks, from the developing state's view, of excessively high costs for technology transfer, excessive delay in use, and non-optimal use when the technology is employed. Criticism of these practices and risks has extended to questioning the value to the developing states of the national and international patent systems. The overwhelming portion of patents in developing states are held by foreign enterprises[43] (We note this is also true for most of the developed state.). For the foreseeable future no significant change in the ratio of foreign ownership of patents will occur in the developing states.

In the transfer process, patents continue to be a highly convenient vehicle to transfer technology, with the domestic patent in the developing state acting as the medium for the transfer of foreign technology through the licensing of a domestic recipient. Patent laws assure the licensee of an exclusive right to produce and sell the subject matter of the patent. The domestic patent provides to the potential recipient and to the officials of the developing state a means of evaluating the technology to be transferred. Of great importance, the patent system allows the licensee to receive along with the patent license the related unpatented know-how. As to this latter aspect, the know-how the technology supplier possesses often is essential in many facets of working the patent. Indeed, the accompanying technology may often be much more valuable to the recipient than the patented process.

As the United Nations Secretary General has stated in his Report on the Role of Patents in the Transfer of Technology to Developing Countries,[44] the solution to the developing states' concerns is not to abolish the patent system. That approach would both discourage invention within the developing states and discourage foreign investment and licensing of technology. Indeed, despite their criticisms, the developing states have continued to maintain their national systems of patent and other industrial property rights, in some cases inherited from colonial periods (although they have not all kept current with modern changes made in the developed states). Also, at the international level, a great number of those states have contributed actively to the international system of protection of industrial property by becoming parties to the Paris Convention and other agreements, and by participating in the World Intellectual Property Oroganization.

Rather than opting out of the system for protection of industrial property, the proper focus of developing state efforts is to seek modifications at the national and international levels that will promote, with equitable consideration for the interests of all concerned, the optimum flow of useful technology to the developing states. At the national level[45] the definite trend is for the developing states to modify substantive industrial property law and the administration of that law as regards such problems as (a) the unjustified granting of patents and trademarks; (b) the failure to use patents or undue delay in their use; (c) the burden of the cost of remuneration, and (d) the maximum period of patent protection afforded. Likewise, those states are pressing vigorously for modifications of the international system.[46]

A problem of major concern to the developing states is the failure to work foreign-owned or controlled patents. One writer has reported that ninety to ninety-five percent of those patents in those countries are unworked.[47] The apparent trend of decision is for the developing countries to reduce the period after the grant of the patent in which the owner may not work it or work it at insufficient levels, before a system of compulsory licensing starts operating. Also, the permissible non-working period may be even shorter for patents in the fields deemed especially vital to the public welfare, for example food or pharmaceutical good, or for food or pharmaceutical processing fields.[48]

At the international level, the developing states are negotiating[49] for changes to Article 5A[50] of the Paris Convention, which provides a four year period of non-working or insufficient working of a patent, running from the date of filing of the patent application, or three years from the date of the grant of the patent, whichever period expires last, unless the patent owner justifies its inaction with legitimate reasons. The developing countries are seeking a provision giving any of those states the right to grant a "non-voluntary" license after only two years from the date of grant of the patent in that country, unless the patent owner can justifiy his inaction. Additionally, the developing countries are supporting further modifications of the present Article 5A of the Paris Convention, to permit exclusive, rather than non-exclusive, non-voluntary licenses where necessary, and a special right of any developing country to deem a non-worded patent in its territory forfeited or revoked more rapidly than would be permissible in the developed countries.

The developing states in their national laws appear also to be trending toward reducing the total patent life period. Whereas the United States permits seventeen years, and the normal period in other states has been twenty years, the movement in developing states seems toward reduced periods, generally, and much reduced periods in such areas as manufacturing processes for products such as food, drugs and pharmaceutical supplies. As to the actual food or drug products, some developing states have terminated the patent protection entirely.[51]

Policy appraisal of national laws that increase the pressure to exploit the industrial property rights more rapidly, on the one hand, and shorten the total period of protection on the other, calls for properly balancing the interests of the technology supplier and the developing state, if the transfer process is to function at the optimum level. The interests of the developing state in having the technology exploited rapidly and placed speedily in the public domain are significant. However, if the period allowed to commence exploitation is too brief for necessary preparatory work, or if the total protection period is too brief to expect recoupment of costs and a reasonable profit, this necessarily will discourage the transfer of technology at all levels of the developing state's technological system. Further, the pressure for quick exploitation may cause the technology supplier to channel the technology transfer in a manner expected to realize the quickest profit, regardless of the state's development needs, or to provide less valuable or extensive technology. As regards governmental refusal to grant patent protection in such fields as foodstuffs or drugs, assuredly the high cost of items so fundamental to human well-being is a matter of gravest concern. However, we suggest that proper pricing standards for the products or for the use of processes for their production would be a more appropriate means to strike the balance between the interests of the state and of the technology supplier.

What global community policy calls for in the patent field, then, is a non-working period that potential foreign technology suppliers will perceive as reasonable from the outset, combined with a fair hearing regarding whether, under the particular circumstances, legitimate reasons exist to permit the patent owner to extend that period. As regards the appropriate patent protection period, again, it should be such that the technology suppliers will perceive it to be sufficiently long to allow for recoupment of costs and earning reasonable profits (unless the developing state is prepared to pay additional compensation). States that substantially shorten the period generally, or for specific fields, must determine from experience whether they have reduced the period too much. Further, regardless of the normal protection period, in order to secure transnational transfers of technology under situations of exceptional need, governments of developing countries should consider authorizing more extended protection periods ad hoc.

D. Threshold Regulation of the Transfer Process - The Expanding Role of the Developing States' Technology Regulating Agencies

> "The governmental role in technological choice and selection in developing countries inevitably needs to be extended. . ." 52

In recent years, a most dramatic development has occurred in the regulation of the transfer process by developing countries. At an increasing rate, those states are requiring that proposed technology transfer transactions receive governmental approval in order to become operative in their territories. By subjecting the transfer process to regulation at the very threshold of its territory, as it were, the developing country hopes to secure the maximum benefit and the minimum detriment from technology transfers, and the expectation is "that this trend will continue as the benefits accruing from such policy measures become increasingly apparent."[53] To conduct the process of governmental appraisal and decision whether to approve proposed technology transfers, some of the developing states have created new agencies or expanded the competence of existing onces and have specified the regulatory standards to apply.[54] In referring to these agencies, we use the term proposed by the Secretariat of UNIDO, the "Technology Regulatory Agencies"[55] (hereafter, "TRA's"). Approximately thirty TRA's presently function,[56] and the expectation is that more will be established.[57]

The extent of the regulatory role of the TRA's varies. First, some have the authority not only to decide whether to approve foreign technology transfers, but also, transfers of foreign investment.[58] As regards regulation of technology transfer transactions, the scope of regulatory policies applied has varied from the outset. However, in general, the recent trend is toward broadly expanded competence. This is but one illustration of the fact that the governments of developing countries indeed concur with the view quoted at the beginning of this section, that their governmental role in the technological field "inevitably needs to be extended."

In their first period of operation, most of the TRA's performed relatively limited regulatory roles. Their principal areas of concern were first, to eliminate or minimize restrictive business practices that accompanied or were associated with the proposed technology transfer. Our discussion in the preceding section of this section points out the types of prohibitions of restrictive practices in the transfer process commonly applied by the TRA's. Mexico's 1972 Law on the Transfer of Technology and the Use and Exploitation of Patents and Trademarks[59] provides a good national illustration.

Second, the TRA's examined the terms of the proposed transaction to determine their basic consistency with national fiscal regulations and similar specific legal requirements. Third, the agencies appraised the fairness of the consideration requested from the technology recipient, and sought to reduce excessive consideration. Reports of past performance of the TRA's indicate that the agencies have had significant success in achieving these regulatory objectives.[60]

However, the present trend is for substantial expansion of the roles of the TRA's.[61] These roles include extensive activity in all aspects pertinent to the development of a national technological base, including all matters directly or indirectly related to the transfer process. Two other major roles are (l) acting as coordinating center for all agencies' policies pertinent to the transfer process (e.g., policies pertaining to foreign investment), and (2) requiring the transfer process to conform to national development policies and regulations.

In the area of expanded competence pertaining to acquisition of technology, many of the TRA's already are engaged in various tasks. These include evaluation of the technology proposed to be transferred, and the search for cheaper or more useful alternate technologies to replace some or all of a particular foreign technology "package". Other tasks are the identification of national technological needs, the search for technologies to meet those needs, and cooperative exchange with other TRA's to gain technical and administrative information to assist the TRA in performing all functions. In the area of regulatory activity to assure conformity to the developing state's development policies and plans, the TRA will be expected to consider the relationship between any specific proposed foreign technology transfer and "the fulfillment of broader objectives of broad-based industrial growth and development of indigenous technological capability.[62] We will discuss here in an illustrative way only a few of the task this entails for the TRA and the probable implications for outcomes in the transfer process.

First, the TRA will need to determine whether sufficient foreign technology presently is flowing to sectors having priority from the perspective of national development policies and to determine the amount of payments for foreign technology in various sectors. On the basis of these determinations, if sufficient foreign technology is not flowing to the priority sectors and if a scarcity of funds for direct payments for technology exists--probably two highly prevalent conditions--a probable outcome will be for the TRA to refuse proposed technology transfers that do not meet the developing state's high priority needs. As one writer has said, "In the light of such analysis, TRA's can determine the nature and extent of selectivity that can be exercised in respect of technology inflow."[63]

Second, and related to the foregoing discussion, many developing states now have policies calling in part for decentralization of industry and promoting industry and technology useful in semi-urban and rural areas. Thus, a national development plan may express geographical preferences and related broad sector priorities based on those preferences. The TRA in applying those preferences and priorities may then refuse to approve of transfers of urban-oriented technology or of other technology whose expected locus of use is not in one of the priority geographic areas. Third, the TRA will need to determine which economic sectors display adequate domestic technology, and also, those sectors in which foreign technology is having an adverse effect on domestic technological development. India and some other developing states already have identified certain sectors in which they do not permit foreign technology to compete with adequate domestic technology[64] The clear outcome of decision by TRA's would be to refuse approval of foreign technology transfers in those identified sectors.

Finally, with the TRA functioning as an avowed instrument to aid in implementing national development policies, increased meaning is added to all of its activities directly or indirectly related to the technology transfer process, which we have briefly discussed, above. The intensity with which the TRA appraises and judges the proposed technology transfer, and the degree to which it exercises its regulatory power in areas previously considered "advisory" may reflect the new sense of obligation involved in implementing national development policies.

From the perspective of global community policy, one must approve of the creation of a developing state regulatory system for threshold approval of proposed technology transactions. The operation of a specialized, well-staffed agency applying in an equitable way well-conceived regulatory laws and policies provides the early opportunity for appropriate modification of the proposed transaction to meet the private and public interests of all concerned and provides increased certainty for the future stability of the transaction.[65] Also, if the TRA will not permit the transaction, or a party is not satisfied to proceed under the TRA's announced conditions, minimum loss has occurred.

Thus, the TRA can be a most useful "Janus at the gate" to modulate properly the flow of technology to the developing state. However, we note again that this Janus has "two faces" of policies pertaining to the transfer of foreign technology; policies that, as we have seen, emphasize both the value and risks to the developing states. Those policies, as evidenced in substantive and procedural regulations applied by the TRA, are subject to the general principles we set out in Section A of this Chapter. Those regulatory policies likewise are subject to the broader play of global community policy specified throughout this study that calls imperatively for an effective, substantial and useful flow of technology to the developing state.[66]

In this regard, we suggest that community policy strongly favors the major, expanded roles that the TRA's are assuming in the course of threshold regulation of the transfer process. Most developing states and their enterprises need a center of information and expertise on all aspects of the transfer process and more broadly, the national system for technological development. The advice, the negotiations and the regulatory decisions of the TRA are more likely to be in accord with national and international policy where the TRA brings together all threads of policy pertaining to national technological development. Likewise, as a coordinating center for regulatory policies of other agencies whose activities may bear on the transfer process, the TRA should be able to perform its functions of regulation of the process more comprehensively. Finally, we have pointed out early in this Section than an essential underpinning to optimum national regulation of the developing state of the transfer process is the establishment of a sound, comprehensive national development plan. Obviously, the nexus between the features of that plan and decisions regarding the transfer of foreign technology must exist. The TRA can play a major role or part of that nexus.

However, we would be amiss if we did not point out that with the heavy load of policy considerations that TRA's will now bring to their functions in regulating and promoting the transfer process, care must be taken not to lose sight of policy imperatives. For most developing countries, the TRA must function in a manner that not merely maintains the present level of inflow of technology, but indeed, promotes a substantial increase for the foreseeable future. The Secretariat of UNIDO, second to none in promoting development of domestic technology in the developing states, has stated,

> "Nevertheless, it must be emphasized that a significant flow of industrial technology in selected growth sectors must take place to developing countries. . . developing countries cannot afford to be isolated from the mainstream of international technological development." 67

In this regard, we note certain potential problems implied in our discussion of trends in the expansion of competence of TRA's. First, inherent in the greatly expanded roles of the TRA is the requirement for a much more detailed examination of the proposed transfer transaction and a very complex process of appraising it in the light of the broadest sets of national policies. Further, the TRA necessarily must participate in the transfer process both as a regulator and negotiator. Thus, the potential technology supplier may face a complex, lengthy process of negotiation and regulatory clearance, causing substantial expense in itself. The TRA must develop procedures for the best and earliest coordination with the potential supplier and recipient and the speediest practicable procedures. The TRA also should consider policies of waiver or abbreviated procedure for specified types or values of transactions, especially to promote a greater number of minor but useful transfers in the future.

In performing a mixed "advisor-negotiator-regulator" role in the transfer process, the TRA must be careful to function in the proper capacity at the proper time, else both confusion and the improper use of regulatory power can result. Experts in this area already have noted the possible blending of functions. 68 Further, upon subsequent decision that domestic technology has now become adequate to replace foreign technology, the TRA should respect prior existing rights of foreign suppliers, absent an emergency situation, or a freely and mutually agreed settlement. If not, potential suppliers will have little stability of expectation regarding future protection of rights, and will have less incentive to participate in the transfer process. Likewise, if the TRA negotiates for added benefits from a potential supplier, it should do so only within the scope of its authorization as a regulatory agency. If not, that supplier and others will perceive the approval system as a "sale" of approval, perhaps to the highest "bidder", not a regulatory system functioning under law in the public interest.

In excluding foreign technology from competition with adequate domestic technology or from sectors where domestic technology development is hindered, the TRA should avoid the pitfall of excessive protectionism, which can adversely affect future foreign transfers of technology. If the domestic technology is indeed "adequate", then at least some competiton is bearable, and useful to stimulate improvement. Whether domestic technology in a section has indeed been adversely affected by foreign technology should be clear after a sufficient period of protection. If expected improvement in domestic technology does not result, foreign technology transfer should be renewed.

Especially due to the future, increased complexity of the approval process, the TRA should publish substantive and procedural guidelines for use by potential technology suppliers and recipients at the outset of the search for technology. "In some countries, guidelines are prescribed but not published for general information. This may place both potential licensors and licensees in difficulty and may prolong the negotiation proces.."[69]

Finally, whether it be an administrative or judicial tribunal, either the potential supplier or recipient should have an avenue of appeal from an adverse decision rendered by the TRA. This will promote fair, careful decision and allow for higher level policy review.

V. A CLOSING COMMENT

> "If we could first know where we are and whither tending, we could better judge what to do and how to do it."
> —Abraham Lincoln

This current study, like its subject, the current process of transferring technology to developing countries, is really only a beginning on the road to achieving the optimum. For the writer, this is but a pause before renewed research. However, we may say that the study does provide the reader with an understanding of the transfer process and of the current and potential roles of the key participants. Further, the discussion on selected aspects of the developing states' regulatory policies applicable to the transfer process suggests the broad trends in the developing countries' national schemes of regulation, an area crucial to the optimum transfer of technology to the developing states. Throughout the study we have emphasized the necessity of infusing into all issues the applicable global community policies; policies that ultimately relate the operation of the technology transfer process to the fundamental community goal: the highest promotion of human dignity for all inhabitants of our world community. Throughout, the study points to the key problem of developing balanced perspectives, balanced policies, balanced regulations, if the transfer process is to function at its optimum level. Janus of the two faces looks out at the reader from every page.

However, we recall that Janus also was the god of beginnings. Now, surely, is the time to begin a greatly accelerated flow of technology to the developing countries. The crisis of the severe lack of modern technology is nearly three-quarters of human society is a world crisis of the first magnitude. The bomb is ticking. However, the technology is at hand to meet the crisis, and so is the transfer system. The national and international legal aspects of the transfer process, like other aspects, need much improvement. Yet, with the right will of the participants, the transfer process can function effectively to start meeting the needs of the developing countries, while that same will to succeed works the improvements. Like most problems that confront humanity, then, the ultimate question is whether there exists "the will to do". That is what beginnings are all about.

> "History shows that great economic and social forces blow like a tide over communities only half conscious of that which is befalling them. Wise statemen foresee what time is thus bringing and try to shape institutions and mold men's thoughts and purposes in accordance with the change that is silently coming on."
>
> ---John Stuart Mill

NOTES

1. XV *The Encyclopedia America* 618 (1959 ed.).

2. UNIDO, *Lima Declaration and plan of Action on Industrial Development and Co-operation* (Adopted by Second General Conference on UNIDO, Lima, Peru 12-26 March 1975) para. 12. (Hereafter, *"Lima Declaration").* We use the terms "developed countries" and "developing countries" in this study only because international parlance commonly uses them. *All* states are truly "developing countrie," with each state at a different point of present development. We believe that the language of "developed"and "developing" helps to create a false dishotomy as to the interests of states. The term "developed" suggests that a state so described has reached its desired level of development and might have less

understanding of the needs of, or desire to cooperate with, a "developing" state still seeking to become "developed." All states continue to wish to improve various areas of economic, social and other aspects of national development. The only difference is the degree of intensity of this need due to the relative level of development. The common mutual interest in development and the interdependence today is satisfying this mutual need is a major factor in uniting all states in cooperation in national development, including transnational transfer of technology to that end.

Finally, we note that within the group of "developing" countries very wide differences in development exist. Generally, there are three tiers of such countries, the top tier of about 15 states, including such states as Mexico, Brazil, Venezuela, and India, clearly have the capability of moving into the "developed" category in the reasonably forseeable future. In the second and most numerous tier are the countries that will need massive technological and other assistance for some time, but have reasonable prospects of development. Indeed, some of these, because of valuable natural resources, can be quite certain of development in time, as long as their governments allocate funds wisely. Finally, there is a third tier of approximately 25 states, the "least developed," or as one writer has said, the "hard core poor" countries. See Lados, Patents, Trademarks, and Related Rights: National and International Protection 1890-91 (1975).

3. Regarding the concept of "world community," see McDougal, Lasswell and Reisman, "The World Constitutive Process of Authoritative Decision," 19 J. Legal Ed. 253 (1967), and authorities cited therein.

4. It would be inaccurate to view the territorial communities or the civilizations of earlier history as lacking considerable contacts and interactions among them. See Bozeman, Politics and Culture in International History Parts I and II (1960), for comments on the relatively extensive relations between "East" and "West" even in ancient history. However, it is true that formerly, ". . . the world had a number of separate centers of political life. Empires could collapse in one continent or anarchy could distract it, without this being felt or even known in the other countries," Mitrany, The Progress of International Government 115 (1933). The point to be emphasized is that today, interdependencies among societies has not only reached extremely high levels of intensity, but exists on a global basis.

5. Young, "The United Nations and the International System" XXII International Organization 902, 920-1 (1968). ". . . The great feature of the world in which we are living is that it is manifestly what Wendell Wilkie called 'One World;' We cannot today in the middle of the twentieth century cast off our responsibility towards any part of

the world. It is too obvious that what happens in Korea, New Delhi or Singapore, what happens in Moscow, Peking, or Washington, what happens in Nairobi or Lagos, affects us all. We are living in a world in which it is possible for a person to speak into a machine so that his voice will be heard on the other side of the earth a fraction of a second before it reaches those who are at the back of theroom in which he is standing. We are living in a world in which it is possible for a man to breakfast in London, visit Copenhagen in the morning and return to London in time for lunch. And our problem is to find the institution which will make real in our living that actuality from which there is no escape." Ferguson, *The United Nations and the World's Needs* 7 (1957).

6. For elaboration, see McDougal, "The Impact of International Law Upon National Law: A Policy Oriented Perspective," 4 *South Dakota Law Review* 25 (1959).

7. For concise discussion on the terms "industrial property," "trade secrets," and "know-how," see Lados, *Patents, Trademarks, and Related Rights: National and International Protection* 1-3, 1616 et seq (1975) (Hereafter, *"Lados"*).

8. We refer specifically to the negotiations at the continuing United Nations Conference on an International Code of Conduct on Transfer of Technology (hereafter, "CODE Conference"). See, *e.g.*, Finnegan, "A Code of Conduct Regulating International Technology Transfer: Panacea or Pitfall?", 60 *J.P.O.S.* 71 (1978); Zaphirious, "International Code of Conduct on Transfers of Technology," 26 *I.C.L.Q.* 210 (1977): "Regulation of Transfer of Technology: AN Evaluation of the UNCTAD Code of Conduct", 18 *Har. I. L. J.* 309 (1977).

9. *Lados*, 1883.

10. UNIDO Secretariat, Doc. ID/WG.272/1, *Technological Co-operation Between Developing Countries Including Exchange of Information and Experiences in Technology and Know-How Agreements* 3 (21 Feb. 1978).

11. Matsui, "The Transfer of Technology to Developing Countries: Some Proposals to Solve Current Problems", 59 *J.P.O.S.* 612, 614 (1977).

12. See Chudson, *The International Transfer of Commercial Technology to Developing Countries*, UNITAR, Research Report No. 13 (1971): *Guidelines for the Study of the Transfer of Technology to Developing Countries* (U.N. Pub. Sales No. E.72.II.D.19). Stopford and Wells, Jr., *Managing the Multinational Enterprise*, Pt. 2 (1972).

13. See, *e.g.*, *Export Administration Regulations* Sec. 397 promulgated by Office of Export Administration, U.S. Dept. of Commerce. Reprinted in OEA, *Export Control of Technical Data* (January 1979).

14. UNIDO Secretariat, Doc. ID/WG.272/1, *supra* note 10, at 4.

15. See *e.g.*, UNIDO Secretariat, Doc. ID/WG.272/1, *supra* note 10; UNIDO, Doc. ID/WG.275/9, *Report of Meeting of Government Experts on Regulatory Functions in Transfer of Technology* (14 Dec. 1978); International Center for Industrial Studies, UNIDO, Doc. ID/WG.228/3/Rev.1, *Functions and Organization of National Offices for Transfer of Technology* (5 Apr. 1978).

16. *Lima Declaration*, *supra*, note 2.

17. Singer, "The Foreign Company as an Exporter of Technology", 3 *Bull. of the Inst. of Development Studies* (Oct. 1970), cited in *Lados*, *supra*, note 7, at 1895.

18. Johnson, "The Multinational Corporation as a Development Agent", 70 *Col. J. World Bus.* 26 (May-June, 1970).

19. *Id.*

20. Singer, *supra*, note 17, cited in *Lados*, 1895.

21. *Lima Declaration*, para. 5.

22. *Lima Declaration*, para. 12.

23. Many of these proposals are taken from the draft chapter on "special treatment for developing countries" in the CODE Conference. The developed and developing states concur in that draft. See UNCTAD Document TD/CODE TOT/C.I/CRP.1, dated 10 November 1978.

24. U.N. General Assembly Resolution 2152 (XXI), which established UNIDO, requested that UNIDO undertake operations, action-oriented studies and research programs concerning, *inter alia*, "building and strengthening of institutions and administration in the developing countries in the matter of industrial technology. . ." (para. 2(a)(iii)) and "dissemination of information on technological innovations originating in various countries and, for the developing countries, assistance in the implementation of practical measures for the application of such information, the adaptation of existing technology and the development of new technology especially suited to the particular physical, social and economic conditions of developing countries through the establishment and improvement, *inter alia*, of technological research centers in these countries" (para. 2(a)(iv)). In carrying out these duties, UNIDO has engaged in a wide series of activities through technical assistance, studies, expert group meetings, seminars, training programs and information services. The massive effort by UNIDO in areas pertinent to this study is illustrated by the great number of entries in UNIDO, *UNIDO Abstracts on Technology Transfer: Studies and Reports on the*

Development and Transfer of Technology (1970-1976) (1977). References in this study to many UNIDO documents also indicate the broad range of UNIDO activity pertinent to the transfer process.

25. *Lima Declaration*, paras. 66 and 61(d).

26. *Id*.

27. For discussion on the work of UNIDO in the area of development and transfer of technology, see UNIDO Industrial Development Board, *Annual Report of the Executive Director*, 1978, 78-83 (March, 1979).

28. See UNIDO Doc. ID/WG.219/9, *Report on Regional Consultation for the Arab Countries of the Middle East and North Africa on Licensing of Technology with Reference to the Petrochemical and Fertilizer Industry*. Para. 7 (12 Dec. 1975), where the meeting recommended "collective basis" for acquisition of technology licenses. *Lados*, at 1896 cites a report on the UNCTAD Secretariat for a UNCTAD Conference in Chile (Doc. TD/B?C.2/104 of Jan. 19, 1971, paras. 26, 27), as supporting a regional grouping for joint bargaining for technology or investment where the countries are small and weak.

29 *Lima Declaration*, para. 14.

30. We use the term "CODE Conference" to refer to the current United Nations Conference on an International Code of Conduct on Transfer of Technology, held under the auspices of UNCTAD. An excellent illustration of the debate over applicability of customary international law to issues arising from operation of the transfer process concerns dispute in the wording of paragraph 3.1 of the draft chapter on "national regulation of transfer of technology transactions," wherein the developing states (the "Group of 77") prefer reference only to treaty obligations and the non-socialist developed states ("Group B") desire reference to "international law" as well as treaties, to include customary rules and general principles. The socialist states ("Group D") support reference to "universally acknowledged principles and norms of international law" and treaties, but like the Group of 77, reject reference to customary rules. See UNCTAD Document TD/CODE TOD/C.1/CRP.5.

31. All states concur on this in discussions in the CODE Conference. See, *e.g.*, para. 3.4 of draft chapter on "national regulation of transfer of technology transactions," cited *supra*, note 30.

32. *Lima Declaration*, para. 58.

33. Para. 3.2A(1), draft chapter on "national regulation of the transfer of technology transactions," CODE Conference, cited *supra*, note 30.

34. In the CODE Conference, the developing and developed states have

recognized that the nature of national regulation has decisive effect upon the extent and quality of the flow of foreign technology to developing states via the transfer process, and that a favorable regulatory climate is essential to promote the process. See para. 3.2, draft chapter on national regulation cited, *supra*, note 30. Further, certain of the principles that we subsequently specify in the text have secured full concurrence in the CODE Conference. However, others are disputed or missing in the cited draft chapter, considerable work remains for the CODE Conference in the drafting of this chapter.

35. *Lados*, 1906.

36. *E.g.*, Mexico's 1972 *Law for the Registration of the Transfer of Technology and the Use and Exploitation of Patents and Trademarks*, Government of Mexico, *Diario Oficial*, 30 December 1972. Reprinted in UNIDO Secretariat, Doc. ID/WG.275/2, *Kay Legislative and Administrative Acts and Measures Affecting and Regulating the Flow of Foreign Technology in Selected Developing Countries* 48-53 (11 April 1978). This UNIDO document gives examples for other of the more industrialized developing countries, such as Argentina, Brazil, Spain and Venezuela. See, also, UNIDO International Centre for Industrial Studies, Doc. ID/WG.228/2, *Role of Government Intervention in Transfer of Technology* 7-9 (8 June 1976).

37. *Lados*, 1884, 1886.

38. See para. 3.3, draft chapter on national regulation, cited *supra*, note 30.

39. *As revised* at Stockholm, July 14, 1967 (1968), 21 *U.S.T.* 1583, *T.I.A.S.* 6923.

40. ". . .(N)onadherence of a developing country to a treaty arrangement that gives adequate protection to foreign rights of industrial property is an impediment to ecoomic development. It is undeniable that the Paris Convention is the best existing international system of such protection. In the case of nonadherence to it by a country, foreign owners of industrial property may be deprived of the benefits stipulated in the Paris Convention. . ." *Lados*, 1885.

41. "A good legal system of industrial property in a developing country would not necessarily guarantee a ready access to technology, but a bad system may seriously impede it, because it is a factor in the element of confidence and legal security which stimulates investment." *Lados*, 1885.

42. See discussion in *Lados*, 1888-89.

43. The estimate is as high as 95 percent. Matsui, "The Transfer of

technology to Developing Countries: Some Proposals to Solve Current Problems," 59 J.P.O.S. 612, 614 (1977).

44. U.N. Doc. E/3861 (1964).

45. See Discussion in Lados, 1887-88.

46. Matsui, supra, note 43, at 614.

48. Lados, 1887-88.

49. Under auspices of the World Intellectual Property Organization (WIPO), the "Working Group Entrusted with Questions on Special Interest to Developing Countries," part of the Preparatory Intergovernmental Committee on the Revision of the Paris Convention, is working on draft amendments to Article 5, including several aspects of preferential treatment for developing states. See WIPO documents PR/PIC/II/13, Annex II; PR/PIC/I/2, pp. 5, 11; PR/PIC/II/4, p. 7; and PR/WGODC/II/5.

50. In the text, we discuss only the developing states' efforts at amending Article 5A, since they are pertinent to our focus on the effect of patent law on the transfer process. However, the developing states are also actively seeking amendments of Article 5 (5A, 5B, 5D0 to grant preferential treatment for their nationals as regards fees (5A); the term of priority for filing applications (5B) and fees for their nationals in their own respective countries (5D).

51. Lados, 1887-88.

52. UNIDO Secretariat, Doc. ID/WG.275/7, The Role and Functions of Technology Regulatory Agencies to Technological Development 18 (17 May 1978).

53. UNIDO Secretariat, Doc. ID/WG.275/2, Key Legislative and Administrative Acts and Measures Affecting and Regulating the Flow of Foreign Technology in Selected Developing Countries 1 (11 April 1978).

54. See, e.g., UNIDO International Center for Industrial Studies, Doc. ID/WG.228/3/Rev.1, Functions and Organization of National Offices for Transfers of Technology (5 April 1978); UNIDO Secretariat, supra, note 86.

55. UNIDO Secretariat, supra, note 52, at 1.

56. UNIDO Secretariat, Doc. ID/WG.272/1, Technological Co-operation Between Developing Countries Including Exchange of Information and Experiences in Technology and Know-How agreements 4 (21 Feb. 1978).

57. UNIDO Doc. ID/WG.219/9, Report of Regional Consultation for the Arab Countries of the Middle East and North African on Licensing of Technology with Reference to the Petroleum and Fertilizer Industry 3 (12 Dec. 1975).

58. UNIDO Secretariat, supra, note 52, at 1.

59. Government of Mexico, Diario Oficial, 30 December 1972. The Mexican RTA's competence, in addition to dealing with restrictive practices, extended to determining if alternative adequate domestic technology was available; appraising properity of consideration and determining whether foreign judicial jurisdiction was required.

60. UNIDO Secretariat, supra, note 52 at 2.

6. UNIDO Secretariat, supra note 52, and UNIDO International Center for Industrial Studies, Doc. ID/WG.228/3/Rev. 1, Functions and Organization of National Offices for Transfer of Technology (5 April 1978).

62. UNIDO Secretariat, spura, note 52, at 2.

63. UNIDO Secretariat, supra, note 52, at 4.

64. UNIDO Secretariat, supra, note 52, at 10-11.

65. See Discussion in references cited supra, notes 52, 61.

66. In the context of discussing the problem of restrictive provisions in technology licenses, the UNIDO Secretariat has stated the balancing principle very well:

> The regulation of technology inflow to developing countries has to be viewed from a dual perspective. On the one hand, institutional control should ensure that restrictive provisions in agreements contrary to the interests of licensees and the economy should be avoided or minimized as far as possible. On the other hand, positive institutional and legislative assistance is necessary to promote the inflow of appropriate industrial technology in order to bridge major technological and production gaps. It is only when a judicious balance has been reached between these two aspects that the licensing of foreign technology can serve as a real, effective instrument for technological growth in development countries. (Emphasis added.) UNIDO Secretariat, supra, note 52, at 1.

67. UNIDO Secretariat, supra, note 52, at 10.

68. UNIDO Secretariat, supra, note 52, at 9-10.

69. UNIDO Secretariat, *supra*, note 52, at 17.

DISCUSSION

CULTURE, DEVELOPMENT AND DIPLOMACY: REFLECTIONS ON A SEAMLESS WEB

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Knowledge, to paraphrase Justice Oliver Wendell Holmes, Jr.'s famous bon mot on the law, "is a seamless web." The writings collected in Culture, Development and Diplomacy dramatically illustrate that truth. They demonstrate that culture, development and diplomacy are highly interdependent, and that within either the national or international arena, successful conduct of "intercommunity" relations requires recognition and appraisal of that interdependence. In examining the collection pursuant to preparing a comment upon their contents this writer, an international lawyer, saw in this fact of interdependence a fascinating prospect. That prospect is the great contribution that anthropological studies could make in enhancing performance in the fields of development and diplomacy. A modest suggestion is that anthropology may well be able to provide us with the "big picture," the sorely needed "frame of reference," within which we might more intelligently devise policies and standards to promote and to regulate the process of international assistance to national development. One trusts that the following brief, highly impressionistic references to these papers will encourage readers to delve carefully in the rich vein of "interconnectedness," of interdependence of culture, development and diplomacy that runs through the collection.

Even when the participants are secure governments of stable, modern national societies, careful appraisal of cultural aspects undoubtedly would promote successful international relations. Much more so would this be the case when dealing with governments of states embroiled in transition, as is shown so well in Professor Magnarella's study of American-Iranian relations in "Iranian Diplomacy in the Khomeini Era."

Professor Magnarella undoubtedly is correct in stating that Iranian society today represents a unique example of difficulties for diplomacy posed by national culture. Such features of the Iranian culture as (1) militant, traditionalist religious dogma, expressed in the "idiom of persecution" and "the mass ritual and the street," and supported by a powerful clergy "convinced of the inherent evil of human government;" (2) an "all-pervasive and consuming xenophobia;" and (3) an "ethnically diverse and politically fissionary population that periodically requires cataclysmic events to prevent its further disintegration," surely suggest a "worst case" situation. However, any traditionalist culture in transition to modernity, and there are many such today, pose many difficulties for successful diplomacy. As Professor Magnarella states, "Potent cultural symbols, radical political or religious ideologies, along with the prejudices, attitudes and aspirations of the participant masses comprise important realities with which modern diplomats must contend." If diplomats do not, then all too often in the future the outcomes of diplomacy between developed and developing nations may merit the same conclusion reached by Professor Magnarella concerning recent American-Iranian relations: an "example of public diplomacy failed"; of mutual antagonisms generated by poor understanding by both countries' leaders of their counterpart's society and culture.

Quite impressionistically, we suggest that one should anticipate, and therefore analyze, the following problems in conducting diplomatic negotiations with officials of national societies involved in major social change:

a. Difficulty in determining the extent of authority possessed by the negotiating officials.

b. Initial refusal or reluctance of officials even to enter into negotiations, due to their own parochial perspectives, their uncertain scope of authority, or lack of domestic support for the negotiations.

c. Ineptitude, insecurity or lack of credibility of the negotiator in the course of negotiations, due to lack of negotiating experience in the international arena, or to the factors set forth above.

d. Difficulty in accepting the concept of compromise, of the "art of the possible," which is inherent in successful diplomacy.

e. Resort to traditionalist religious dogma or cultural folkways in the negotiation or performance phase to justify conduct deemed inappropriate by standards of modern international diplomacy or international law.

f. Imperfect or even total failure of performance on agreements

> reached. This may be due in part to minimal commitment of individuals and groups within the national society to "constitutionalism," to the principle of adherence to political and legal outcomes resulting from agreements and decisions of the duly authorized government officials. This may also result from continued pressure on officials by subnational groups for the officials themselves to erode or terminate the outcomes of agreement. The scenario is that of continuous internal attack on the agreement requiring governmental officials constantly to rally to the agreement's defense.

This impressionistic and non-comprehensive list of difficulties suggests, in many instances, a diplomacy process facing adversity at every phase, a "rocky road" indeed to achieving international cooperation in advancing international peace and well-being.

Continuing our focus on interdependence of culture and diplomacy, we note that Dr. Landis' article, "Soviet Perceptions; Soviet Motives," suggests that analysis of culture is important in conducting diplomacy with any government, not just with governments of developing countries whose societies are in rapid process of transition. This writer concurs with Dr. Landis' strong recommendations for penetrating research into perspectives and motives of the guiding officials of the Soviet Union, and with his admonishment that we have too long dealt only with the external aspects of the conduct of that government. Urgent indeed is the need for academic inquiry into the Soviet leaders' perspectives and motives in terms of "the politics, economics, ideology and culture of the USSR." Although that broad inquiry may require the collaboration of many disciplines, surely anthropological research would provide the broad "frame of reference" within which other disciplines could function. If indeed, in the words of Winston Churchill, the Soviet Union is "a riddle wrapped in mystery inside an enigma," part of the problem may be that our governmental officials have too long inaccurately assumed as least a substantial commonality of perspectives of the leadership of the Soviet Union and of the "Western World." Diplomacy even among countries sharing much common heritage, such as the Western European states, or the United States and Great Britain, undoubtedly would benefit from the results of increased transcultural research. In the conduct of diplomacy with the Soviet Union, cultural understanding seems manifestly necessary for the development of appropriate policies and strategies.

Although the articles by Professor Magnarella and Dr. Landis focus primarily on the need for cultural appraisal of the other party in diplomatic relations, we suggest that American diplomatic officials also should be interested in internal cultural appraisal. Members of any society probably presume unduly that they understand well their own society; the mainsprings for their felt values, needs, and preferred strategies in domestic or international relations. Closer examination of American culture might better educate our officials concerning the true nature of our own perspectives and motives in international relations and would assist our officials in educating other governments about us. To achieve optimum effectiveness in international diplomacy, one needs not only to understand the maximum about the other party, but also, to insure that one is accurately understood by the other party. Diplomacy is a two-way process of interaction, of relationship.

Broadening our focus to include the factor of development, Professor Lawless' study, "Headhunting, Trade and Diplomacy in the North Luzon Highlands," excellently portrays the close interdependence of culture, development and diplomacy. In this writer's view, the study establishes that headhunting as a cultural institution clearly is linked to economic development and the conduct of diplomacy to promote economic relations. As one who is interested in the conduct of international trade and diplomacy, this writer found it fascinating to consider what one might extrapolate from Professor Lawless' discussion. In the lexicon of the international lawyer, headhunting is (or was) a sanction to enforce trade agreements (the inter-regional "pacts"); a sanction authorized and controlled by the appropriate officals (those making and implementing the pacts). Concurrently, the use or possibility of use, of this extremely violent sanction by certain persons serves to identify those who have the authority to enter into the agreements, to interpret them and to employ sanctions due to improper performance. Further, the status established in the trading pact-head hunting sanction system has broader "pour-over" outcomes for power and respect within the community. An intriguing question is to what extent one would find parallel functions in the use, or possibility of use, of the more destructive forms of sanction in international relations. Further, the facts (1) that the inter-regional trade pacts described by Professor Lawless cover the core features of the classic international "Treaty of Friendship and Commerce;" (2) that changes in economic development affect the use of and adherence to the customary policies and standards in diplomacy, as represented by these pacts, and (3) that key cultural features of a society may be highly resistant to external influences (here, the policies of American occupation personnel), all suggest that studies such as that by Professor Lawless may have valuable applications for international diplomacy.

Professor Almirol's study, "Ethnicity and Diplomacy in a Mexican Town," provides another fine illustration of the interdependence of culture, development and diplomacy. He describes the process by which two ethnic groups, the Otomies and the Mestizos, interact and achieve peaceful accommodation in the Mexican town of Otzolotepec. To focus for the moment on diplomacy, which Professor Almirol defines quite adequately as, "a technique for reaching agreement and formalizing accommodation," this study clearly shows the effect of cultural features and circumstances of economic development upon the process of diplomacy in inter-group relations. Professor Almirol describes the process by which certain Otomies achieve acceptance by the higher-status Mestizos as "new" Mestizos. This is a status in which an Otomi may be accepted by Mestizos on a basis of equality in many (but not all) respects, and yet, may continue to retain an Otomi identity in relations with other

Otomies. The "new" Mestizos, then, apparently have combined identities with, for many of them, "ethnic commuting" occurring between the identities as the particular situation may require. Professor Almirol refers to this process of achieving the "new" Mestizo status as diplomacy between the Otomies and Mestizos, which, although functionally achieving the same outcomes as diplomacy between nations, obviously is not as formally structured as that between nations, nor conducted by a specialized, professional class of persons. For this writer, Professor Almirol's proposition suggests some interesting questions for further research into the exact role of the "new" Mestizo. Some questions would be: Why do Mestizos choose to accept Otomies on any basis of social or political equality? Does the modernizing economy need the labor of Otomies at the least moderate levels of labor sophistication, and is a certain amount of social acceptance of Otomies who adopt the "social dress" of Mestizos a necessary concomitant of economic needs? From a political viewpoint, do the Mestizos display at least an implicit perspective that some upward social mobility for some Otomies is a useful technique to maintain political stability and acceptance of the basis status quo in the Mestizo-Otomi class hierarchy? Is the possibility of becoming a "new" Mestizo a Mestizo device for coopting the "best and the brightest" of the Otomies? Further, do the "new" Mestizos function (perhaps unconsciously) as a "bridge" between the two groups to provide a channel for certain communications that would not be delivered, or would be delivered less perfectly, if the "new" Mestizo status did not exist?

As regards possible extrapolation to the international level, an intriguing question is to what extent one might draw an analogy between interaction and accommodation of groups within a national or subnational community and interaction and accommodation in international relations. To what extent does the "world community" display/subgroups of states at the global or regional levels functioning in a status hierarchy? Could the "developed" and "developing" states or the "modern" and "traditionalist" states be described in that sense? Could certain developing states be described as having a "combined" status, due to their substantial adoption of the perspectives and practices of the industrialized, modern states, with consequent acceptance by those states on a basis of equality in relations, while yet maintaining for various purposes in various settings of international relations an identity as a developing state? Do certain states provide a "bridge" for accommodation of conflicting interests between groups of states? As with Professor Lawless' article, Professor Amirol's study suggests that anthropological research even at very local levels may offer valuable contributions to research and practice in international relations.

Professor Lopez, in his paper, "Development, Diplomacy and the Third World," emphasizes the importance of transfer of technology to the developing states, when he asserts that giving those countries access to the benefits of science and technology, "is now widely recognized as a vital component of international cooperation." In his focus on the relations between external assistance institutions of the developed, donor countries and the research and training institutions in the developing, recipient countries, Professor Lopez correctly points out that appropriate policies for the transfer of technology require change in the exploitative social structure existing in most of the developing countries and in the international division of labor created and maintained by the industrialized countries.

Once again, we see the interdependence of culture, development and diplomacy. Professor Lopez asserts that the proper style of development for a society is that, "which faithfully reflects the values and aspirations of the people," and, "to constitute genuine international cooperation, external assistance must be designed in correlation with the whole development process so as to uplift the entire social environment in a developing country." This writer heartily concurs with those views. Clearly, to implement this approach to development and to the use of international diplomacy in promoting development, significant anthropological research and other research in the social sciences would be necessary. This research would provide a basis for devising appropriate development policy and for suggesting appropriate policies and practices to be followed in international diplomacy, including the process of transfer of technology to developing countries.

Professor Lopez's paper, with its excellent portrayal of the overall policy issues involved in the transfer of technology to developing states, nicely sets the stage for this writer's article, "Transfer of Technology to Developing Countries: A Challenge for International Diplomacy." This article examines the international technology transfer process, and sets forth recommended policies for an effective operation of the process to provide sufficient, useful technology to the developing countries. Emphasis is on the perspectives of the governmental and private participants involved, especially the ambivalant perspectives of the recipient governments of developing states. The symbol, "Janus of the two faces", is used to represent the ambivalence often expressed concerning the receipt of foreign technology. The article supplements in considerable detail the broad thrusts of Professor Lopez's paper by suggesting specific policies and standards to be applied to promote the optimum operation of the technology transfer process.

In this article's emphasis on the importance of perspectives of the participants in the transfer process, we again see the value of anthropological inquiry in understanding the attitudes of "developed" and "developing" societies toward development and international cooperation. In that sense, we are brought back to the message in Professor Magnarella's study of American-Iranian relations: the necessity in international diplomacy of understanding other cultures. Thus, we close this discussion on the opening note - the fundamental interdependence of culture, development and diplomacy. These comments, then, have indeed been reflections on "a seamless web."

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